



This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

- + *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.
- + *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.
- + *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.
- + *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at <http://books.google.com/>



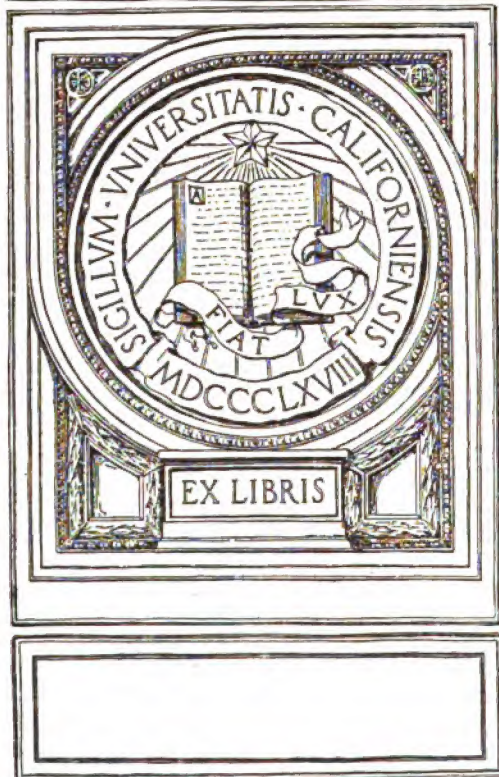
GIFT OF
Mrs. Baxter.

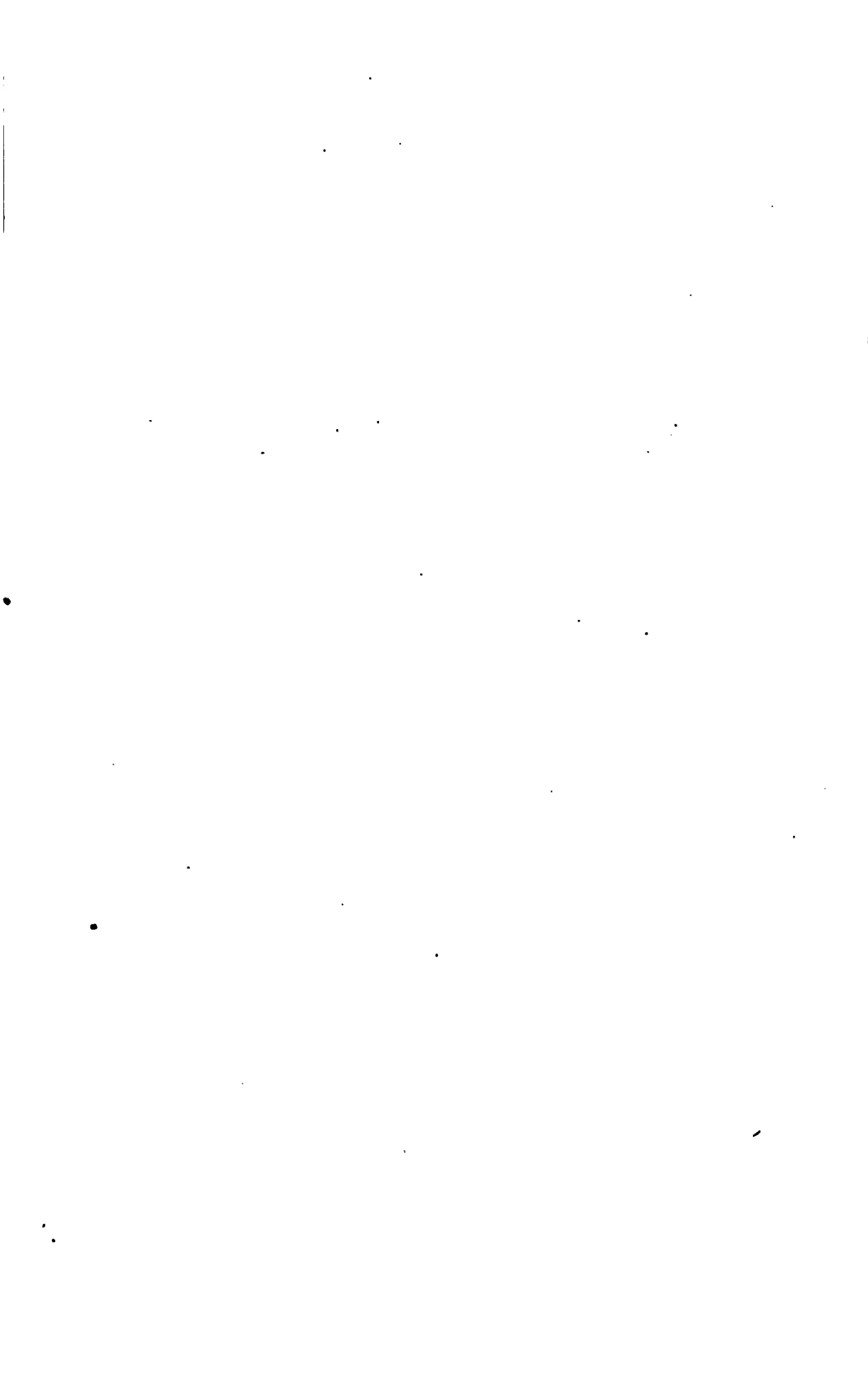


EX LIBRIS



GIFT OF
Mrs. Baxter.







A DIGEST
OF THE
LAWS OF THE UNITED STATES

GOVERNING THE
GRANTING OF ARMY AND NAVY PENSIONS AND BOUNTY-LAND
WARRANTS; DECISIONS OF THE SECRETARY OF THE
INTERIOR, AND RULINGS AND ORDERS OF THE
COMMISSIONER OF PENSIONS THEREUNDER.

COMPILED,
BY ORDER OF THE COMMISSIONER OF PENSIONS,
UNDER THE AUTHORITY OF THE SECRETARY OF THE INTERIOR,
BY
FRANK B. CURTIS
AND
WILLIAM H. WEBSTER.

L. Q. C. LAMAR,
Secretary of the Interior.

JOHN C. BLACK,
Commissioner of Pensions.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1885.

1999

1999

.

.

70 VINU
ABSTRACTO

INTRODUCTION.

DEPARTMENT OF THE INTERIOR, PENSION OFFICE,
Washington, D. C., April 23, 1885.

SIR: You are hereby assigned to the special duty of preparing a digest of the laws, decisions, rulings, and orders, now in operation, governing the adjudication of pension claims.

An efficient amanuensis will be detailed to assist you in the preparation of the work.

Very respectfully,

JOHN C. BLACK,
Commissioner.

Mr. F. B. CURTIS.

DEPARTMENT OF THE INTERIOR, PENSION OFFICE,
Washington, D. C., December 4, 1885.

SIR: On the day of its date I had the honor to receive the order above set forth.

In obedience thereto this digest has been prepared, and it is now respectfully submitted for your consideration and approval.

Acting under your verbal instructions Mr. William H. Webster, chief of the "Old War and Navy Division" of this office, has compiled all the laws, regulations, orders, decisions, and rulings appearing herein, which refer to bounty-land, old war and navy claims, and to him belongs all the credit for that portion of the work.

The system of granting pensions and bounty-lands, in prescribed cases, has become so thoroughly incorporated into our policy, that, if there be any who desire, they can never expect to see its discontinuance. Originating in 1776, every change in it down to the present time has had for its object the embracing of more numerous classes, until now there is hardly a neighborhood in the United States which does not contain one or more persons directly interested in some of the benefits thus conferred.

In most instances pensions have, at the commencement of each war, been promised for disabilities or death incurred in its prosecution; though as to Revolutionary soldiers and their widows, pensions, *without regard to disabilities*, were provided long after the rendition of the service. Pensions for *disabilities* incurred in that war were provided by resolution of Congress, passed August 26, 1776, and in September of the same year the benefits of that resolution were extended back to include

all cases of disability from the commencement of hostilities, on the 19th of April, 1775.

From that time until the present, Congress has gone on, step by step, completing the design of the pension system, which, though imperfect in detail, viewed as a whole, presents a grand and beautiful picture of the nation's justice, humanity, and gratitude to those of its defenders who, by reason of the casualties of war, were in any degree disabled for the continuance of those forms of labor or those duties of life which they abandoned at home for the purpose of taking up arms against its enemies.

Bounty-lands, at first offered only for long terms of enlistment thereafter served out, have by subsequent enactments been extended to all who have borne arms in our foreign hostilities or Indian disturbances, even for almost the shortest possible periods of service, prior to March 3, 1855.

It was the inevitable result that a fabric thus reared, not upon any preconceived plan, but in detached parts to meet temporary purposes and emergencies, should lack uniformity in its design and consistency in its details.

Under the different bounty-land laws the amount of territory granted, the length of service required, as well as the class of beneficiaries provided for, have varied greatly from time to time. When the country was rich in its landed possessions, in the time of the Revolution, grants were made for a service during the entire war of from 1,000 acres to a major-general down to 100 acres for a private soldier, while for subsequent services from 40 to 160 acres only were allowed to all ranks, based, however, upon shorter periods of service. Under the earlier acts the only beneficiaries provided for were the soldiers themselves who rendered the service, while later laws extended such benefits, some to widows and children, without regard to the age of the children, others to minors, and again to those as far removed in relationship in the pensionable sense as fathers, mothers, brothers, and sisters.

So contrariant are the rules governing the different classes of pensioners that an attempt to enumerate them would involve the preparation of a treatise on the subject.

In many instances the intention of Congress has been defeated by the employment of inadequate or improper expressions in the laws themselves, or by too narrow and rigid a construction of them by the Department charged with their execution. Congress has interposed to remedy such inconveniences, until, frequently, the amendments have totally changed the operation of the original law. These amendments, in many cases, have been separated at wide intervals from the original acts to which they refer, and are often found attached to, or included in appropriation bills, or they appear in other places where an inexperienced person would never think of seeking them.

Hence has arisen an obscurity which has enveloped the pension and

bounty-land laws in a fog, through which no one can grope his way unless at such labor as few but professional persons would be willing to bestow upon the subject. The evils which have sprung from this condition of things have been too universally felt to require that they should be pointed out and dwelt upon. All classes of persons having just claims upon the bounty of the Government have been subjected to unjust discriminations necessarily incident to and growing out of the imperfections in the law to which reference has already been made.

If this statement is true, and I believe a pains-taking inquiry into the subject will demonstrate that it is, there is certainly one well-defined, logical, and irresistible conclusion to be drawn therefrom, and that is, that all the laws relating to pensions and bounty-land should be made the subject of a careful revision and codification.

That work, in my opinion, should be done by a commission of not less than three or more than seven thoroughly competent men, whose appointment should be authorized by Congress. The result of the labors of such a commission would be to give us a system of laws comparatively free from errors, under the workings of which no person having a well-founded claim for pension or bounty-land would be deprived of any of the benefits which Congress has provided, or intended to provide.

The first edition of the "Digest," with the preparation of which, in 1881, Mr. Webster and myself had more or less to do, was intended not as a revision or codification of laws, decisions, &c., but simply an arrangement of them in a form for convenient reference, and as a guide to the large force of new and inexperienced clerks who were appointed about that time. How well that work has served the purposes for which it was intended, those who are familiar with its history can state. It was known at the time it was prepared that it was not free from good ground for criticism. In the preface to that edition it was stated that it being the first compilation ever made of the decisions of the Secretary of the Interior relating to the adjudication of claims coming before the Pension Office, together with the laws of Congress, and the regulations, rulings, and orders of the Commissioner of Pensions thereunder, omissions and inaccuracies would unavoidably occur, which time and experience would reveal, and which being thus revealed, could be more easily corrected in subsequent revisions of that work.

While this compilation has undoubtedly resulted in the correction of many of the imperfections of the first edition, still, the lapse of time, accumulated experience, and changes in the law and practice will probably reveal additional ones in this; but a step in advance will have been taken, and the labors of those who in the future may undertake a further revision, will be made less difficult, and the results of their labor rendered more satisfactory.

I am, sir, very respectfully, your obedient servant,

FRANK B. CURTIS.

Hon. JOHN C. BLACK,
Commissioner of Pensions.



LEGAL HISTORY OF THE PENSION OFFICE AND ITS CLERICAL FORCE ABOVE THE GRADE OF FOURTH-CLASS CLERKSHIPS.

In an act making appropriations for the civil and diplomatic expenses of the Government for the year 1833, approved March 2, 1832, the office of Commissioner of Pensions was created. [U. S. Statutes at Large, vol. 4, p. 622.] In this act the salary of the Commissioner was fixed at \$2,500 per annum, and the office was to continue only until the expiration of the next Congress.

In an act approved March 3, 1835, the office of Commissioner of Pensions was continued for two years. It was specified in said act that the Commissioner should "be appointed by the President, by and with the advice and consent of the Senate;" that he should "execute, under the direction of the Secretary of War, such duties in relation to the various pension laws as may be prescribed by the President;" that he should receive an annual salary of \$2,500, and should have the privilege of franking. [U. S. Statutes at Large, vol. 9, p. 242.]

The office of Commissioner of Pensions was further continued by the acts of March 3, 1837; [Laws of the U. S., vol. 9, p. 656];

[NOTE.—Under this act the salary of the Commissioner was increased to \$3,000 per annum, and the franking privilege was continued to him];

Act of March 4, 1840; [Laws of the U. S., pamphlet edition for 1840; Mayo and Moulton, p. 203, ¶ 188];

[NOTE.—Under this act the pension business theretofore transacted by the Navy Department was transferred to the Pension Office];

Act of January 20, 1843; [Laws of the U. S., pamphlet edition for 1843];

[NOTE.—Under this act the granting of bounty-lands was added to the duties of the Commissioner of Pensions and the salary of said officer reduced from \$3,000 to \$2,500 per annum];

And the act of January 14, 1846, continued the office of Commissioner of Pensions until March 4, 1849, "and no longer." [U. S. Statutes at Large, vol. 9, p. 3.]

In the act making appropriations for the civil and diplomatic expenses of the Government for the year ending June 30, 1849, approved August 12, 1848, the salary of the Commissioner of Pensions was increased from \$2,500 to \$3,000 per annum from January 1, 1848. [U. S. Statutes at Large, vol. 9, p. 288.]

By the act approved January 19, 1849 [U. S. Statutes at Large, vol. 9, p. 341], the office of Commissioner of Pensions was continued "until further legislation by Congress," and the salary of the Commissioner was fixed at the rate which was paid to him during the year ending December 31, 1848, viz: \$3,000 per annum. (Act of August 12, 1848.)

By the act approved March 3, 1849 [U. S. Statutes at Large, vol. 9, p. 395], a new Department, called the "Department of the Interior," was created, to which new Department the Pension Office was transferred from the War Department.

An act, approved March 3, 1853, classified the clerks employed in the several Executive Departments of the Government and fixed the salaries those of each class were to receive as follows:

	Per annum.
Class 1.....	\$1,200
Class 2.....	1,400
Class 3.....	1,600
Class 4.....	1,800

This act also provided for a chief clerk of the Pension Office, at a salary of \$2,000 per annum.

[NOTE.—From the date the Pension Office became a Bureau of the Interior Department in 1849, until the passage of the act approved June 25, 1864, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1865, the appropriations were made in bulk each year for the salaries of all the employes of said office, no particular person or employé being mentioned in the law except the Commissioner of Pensions. In the act last above referred to, however, the chief clerk of said office is named as such, in connection with the Commissioner, and appropriation made for the payment of his salary, although the amount of such salary is not specified in the bill. From 1865 to 1868 the office of chief clerk of the Pension Office is mentioned in the annual appropriation bills, and his salary was continued at \$2,000 per annum, or the same rate which was fixed by the act of March 3, 1853. In the act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1873, the office of chief clerk of the Pension Office is named and the amount of his salary (\$2,000) is appropriated.]

By section 29 of an act approved March 3, 1873, the office of Deputy Commissioner of Pensions was created, with an annual salary of \$2,500.

Section 38 of the same act established the office of Medical Referee, and authorized the appointment of four "qualified surgeons."

"SEC. 38. That the Secretary of the Interior be, and is hereby, authorized to appoint a duly qualified surgeon as medical referee, who, under the control and direction of the Commissioner of Pensions, shall have charge of the examination and revision of the reports of examining surgeons, and such other duties touching medical and surgical questions in the Pension Office, as the interests of the service may demand; and his salary shall be two thousand five hundred dollars per annum. And the Secretary of the Interior is further authorized to appoint such qualified surgeons (not exceeding four) as the exigencies of the service may require, who may perform the duties of examining surgeons when so required, and who shall be borne upon the rolls as clerks of the fourth

class: *Provided*, That such appointments shall not increase the clerical force of said Bureau."

By the act making appropriations for the fiscal year ending June 30, 1874, the salary of the Commissioner of Pensions was increased to \$4,000 per annum.

[NOTE.—In the act making appropriations for the fiscal year ending June 30, 1875, but \$3,000 is appropriated for the salary of the Commissioner of Pensions, and no mention of the reduction is made in the deficiency appropriation bill for that year.]

In the act making appropriations for the fiscal year ending June 30, 1876, and approved August 15, 1876, \$3,600 is appropriated for the salary of the Commissioner of Pensions; \$2,250 for the salary of the Deputy Commissioner; \$2,000 for the salary of the chief clerk, and \$2,250 for the salary of the medical referee. No appropriation was made in the appropriation bills of 1879 and 1880 for the office of Deputy Commissioner. That office was vacant from July 1, 1877, to June 30, 1879, inclusive.

In the act making appropriations for the fiscal year ending June 30, 1880, salaries of the officers of the Pension Office were provided for as follows:

Commissioner.....	\$3,600
Deputy Commissioner (said office to continue for one year only).....	2,400
Chief clerk	2,000
Medical referee.....	2,250

In the act making appropriations for the fiscal year ending June 30, 1881, there was appropriated:

For the salary of the Commissioner	\$4,000
For the salary of the Deputy Commissioner	2,400
For the salary of the chief clerk	2,000
For the salary of the medical referee	2,250

In the act making appropriations for the fiscal year ending June 30, 1882, the salary of the Commissioner of Pensions was increased to \$5,000 per annum. An additional Deputy Commissioner was provided at a salary of \$2,400 per annum, and the salary of the First Deputy Commissioner was increased to \$3,600. This bill also provided for the appointment of twenty examiners at \$2,000 each.

In the act making appropriations for the fiscal year ending June 30, 1883, the following provisions were made:

Commissioner.....	\$5,000
First Deputy Commissioner	3,600
Second Deputy Commissioner	3,600
Chief Clerk	2,500
Assistant Chief Clerk.....	2,000
Medical Referee.....	2,500
Assistant Medical Referee	2,250
Four qualified surgeons, at	2,000
Twelve chiefs of divisions, at.....	2,000
Law Clerk.....	2,000
Thirty-five principal examiners for review board, at	2,000

In the appropriation bill for the year ending June 30, 1884, no change was made, except that but two (instead of four) qualified surgeons at \$2,000 each were provided for.

In the appropriation bill for the fiscal year ending June 30, 1885, the officers and salaries provided for remained the same, except the salary of the medical referee was increased to \$3,000 per annum and the review board was increased by the addition of ten principal examiners at \$2,000 each.

In the act making appropriations for the fiscal year ending June 30, 1886, no change in the number of officers or in the amounts of their salaries was made, *above the grade of fourth-class clerkships.*

[NOTE.—In this act provision was made for eighteen medical examiners at an annual salary of \$1,800 each, who while not strictly fourth-class clerks, received the same salary.]

DIGEST OF THE LAWS OF THE UNITED STATES RELATING TO SPECIAL EXAMINERS EMPLOYED UNDER THE DIRECTION AND CONTROL OF THE COMMISSIONER OF PENSIONS.

Act of July 14, 1862:

"SEC. 12. And be it further enacted, that the Secretary of the Interior be, and he is hereby, authorized to appoint a special agent for the Pension Office to assist in the detection of frauds against the pension laws, to cause persons committing such frauds to be prosecuted, and to discharge such other duties as said Secretary may require him to perform; which said agent shall receive for his services an annual salary of twelve hundred dollars, and his actual traveling expenses incurred in the discharge of his duties shall be paid by the Government." [U. S. Statutes at Large, vol. 12, p. 569.]

By an act approved July 4, 1864, the foregoing enactment was repealed and, in lieu thereof, the following was enacted:

"Section twelve of the act to grant pensions, approved July 14, 1862, is hereby repealed; and the Commissioner of Pensions is authorized and empowered to detail, from time to time, clerks in his office to investigate suspected attempts at fraud on the Government through the Pension Office, and to aid in prosecuting any persons so offending, with such additional compensation as is customary in cases of special service." [U. S. Statutes at Large, vol. 13, p. 387; Brightly's Digest, vol. 2, p. 360.]

Act of March 3, 1873:

"SEC. 30. That the Commissioner of Pensions is hereby authorized and empowered to detail, from time to time, clerks in his office to investigate suspected attempts at fraud on the Government of the United States, through and by virtue of the provisions of this or any other act of Congress providing for pensions, and to aid in prosecuting any persons so offending, with such additional compensation as is customary in cases of special service; and that any person so detailed shall have the power to administer oaths and take affidavits in the course of any such investigation." [Sec. 4744, R. S.]

Act of March 3, 1875:

"[PAR. 3.] That the additional compensation authorized by section four thousand seven hundred and forty-four of the Revised Statutes

to be paid to clerks detailed to investigate suspected attempts at fraud upon the Government through and by virtue of the pension laws, shall be the actual necessary expenses of transportation, and a *per diem* allowance, in lieu of subsistence, not exceeding four dollars *per diem*." [Supplement to Revised Statutes U. S., vol. 1, p. 157.]

In an act approved July 25, 1882, the following was adopted as an amendment to section 4744, R. S., before referred to:

"The Commissioner of Pensions is authorized to detail, from time to time, clerks or persons employed in his office to make special examinations into the merits of such pension or bounty-land claims whether pending or adjudicated, as he may deem proper, and to aid in the prosecution of any party appearing on such examinations to be guilty of fraud, either in the presentation or in procuring the allowance of such claims; and any person so detailed shall have power to administer oaths and take affidavits and depositions in the course of such examinations, and to orally examine witnesses, and may employ a stenographer when deemed necessary by the Commissioner of Pensions, in important cases, such stenographer to be paid by such clerk or person, and the amount so paid to be allowed in his accounts." [U. S. Statutes at Large, vol. 22, p. 175.]

In the act approved July 7, 1884, making appropriations for the fiscal year ending June 30, 1885, the following was adopted:

* * * "For an additional force of one hundred and fifty special examiners, for one year, at a salary of one thousand six hundred dollars each, two hundred and forty thousand dollars; and no person so appointed shall be employed in the State from which he is appointed: *Provided*, That all of said appointments shall be temporary and on probation." * * *

In the act approved March 3, 1885, making appropriations for the fiscal year ending June 30, 1886, the following was adopted:

* * * "For an additional force of one hundred and fifty special examiners, for one year, at a salary of one thousand four hundred dollars each, two hundred and ten thousand dollars; and no person so appointed shall be employed in the State from which he is appointed; and any of those now employed in the Pension Office or as special examiners may be reappointed if they are found to be qualified." * * *

DIGEST
OF THE
LAWS OF THE UNITED STATES

RELATING TO THE

ADJUDICATION OF CLAIMS FOR PENSION AND BOUNTY-LAND,

TOGETHER WITH

**OPINIONS OF THE ATTORNEY-GENERAL, DECISIONS OF THE SECRETARY
OF THE INTERIOR, AND THE RULINGS AND ORDERS OF
THE COMMISSIONER OF PENSIONS THEREUNDER.**



DIGEST OF LAWS, DECISIONS, RULINGS, ORDERS, ETC.

A.

ABANDONMENT.

Section 4706, Revised Statutes.

If any person has died, or shall hereafter die, leaving a widow entitled to a pension by reason of his death, and a child or children under sixteen years of age by such widow, and it shall be duly certified under seal, by any court having probate jurisdiction, that satisfactory evidence has been produced before such court, upon due notice to the widow, that she has abandoned the care of such child or children, or that she is an unsuitable person, by reason of immoral conduct, to have the custody of the same, on presentation of satisfactory evidence thereof to the Commissioner of Pensions, no pension shall be allowed to such widow until such child or children shall have attained the age of sixteen years, any provisions of law to the contrary notwithstanding, and the said child or children shall be pensioned in the same manner, and from the same date, as if no widow had survived such person, and such pension shall be paid to the guardian of such child or children; but if in any case payment of pension shall have been made to the widow, the pension to the child or children shall commence from the date to which her pension has been paid.

Sec. 12, 3 March, 1873; sec. 11, 6 June, 1866; sec. 8, 27 July, 1868.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. A widow who abandons her minor child or children forfeits her title to pension.

Minors of J. Conrad. App. No. 95,810. O. H. Browning, Secretary. Sept. 17, 1867.

2. Where a soldier left a minor child by a former wife who was allowed pension from the date of his death to terminate when said child became sixteen years of age, and where the second wife of said soldier, who had abandoned said minor child, and of whose existence the office was ignorant until May 20, 1872, when she applied for pension to commence from the date the minor became sixteen years of age: *Held*, that the widow's right accrued upon the date of the soldier's death, but as she did not apply within five years from that date her pension was properly made

ABANDONMENT—Continued.

to commence from the date it was filed, rather than from the date the minor child became sixteen years of age.

Catharine Elbert. App. No. 160,958. C. Delano, Secretary. Sept. 24, 1873. Vol. 3, p. 80.

RULING OF THE COMMISSIONER OF PENSIONS.**RULING No. 1. December 3, 1874.**

When a widow has been deprived of her pension on account of abandonment of her children by the soldier, or unfitness to have custody of the same, any increase of pension which accrued before the suspension of the original pension can be paid to the widow after the children attain the age of sixteen years. It cannot be paid before that date.

ABSTRACTS.**DECISION OF THE SECRETARY OF THE INTERIOR.**

Abstracts furnished to attorneys should exclude record, medical, and confidential evidence.

Isaac Miller. App. No. 165,878. C. Delano, Secretary. Sept. 12, 1874. Vol. 3, p. 811.

ACCIDENTS.

See *LINE OF DUTY*, *par. 9*.

ACCIDENTAL GUNSHOT WOUNDS.

See *LINE OF DUTY*, *par. 9*.

ACCRUED PENSION.**Section 4718, Revised Statutes.**

If any pensioner has died, or shall hereafter die, or if any person entitled to a pension, having an application therefor pending, has died or shall hereafter die, his widow, or if there is no widow, the child or children of such person under the age of sixteen years shall be entitled to receive the accrued pension to the date of the death of such person. Such accrued pension shall not be considered as a part of the assets of the estate of deceased, nor liable to be applied to the payment of the debts of said estate in any case whatever, but shall inure to the sole and exclusive benefit of the widow or children; and if no widow or child survive, no payment whatsoever of the accrued pension shall be made or allowed, except so much as may be necessary to reimburse the person who bore the expenses of the last sickness and burial of the decedent, in cases where he did not leave sufficient assets to meet such expenses.

Sec. 25, 3 March, 1873; sec. 10, 4 July, 1864; sec. 6, 6 June, 1866; sec. 4, 25 July, 1866; sec. 2, 27 July, 1868; sec. 2, 2 March, 1829; secs. 1, 2, 3, 19 June, 1840; also, see note to each of the last two-named acts in Mayo and Moulton.

ACCRUED PENSION—Continued.**DECISIONS OF THE SECRETARY OF THE INTERIOR.**

1. On death of soldier after completion of his claim for invalid pension, widow entitled to accrued pension.

Instructions: Cox, J. D., Secretary. July 12, 1869. Vol. 2, p. 202.

2. Does not constitute a part of the assets of a deceased pensioner.

Johnson, Ann B. No. 652. Cox, J. D., Secretary. Dec. 18, 1869. Vol. 2, p. 142.

3. The words "pensioner" and "person" in section 4718, Revised Statutes, include widows, pensioners.

Kilpatrick, Sarah. Ctf. No. 6,591. Chandler, Z., Secretary. August 12, 1876. Vol. 4, p. 370.

4. Widow entitled to, where soldier died during the pendency of his claim, prior to passage of the act of January 25, 1879, under acts of January 25 and March 3, 1879, and section 4718.

Russell, Amelia D. App. No. 207,304. Schurz, C., Secretary. April 25, 1879. Vol. 6, p. 312.

5. Heirs not entitled to, other than as specified in section 4718, Revised Statutes.

Lemaster, George, heirs of, (1812). Schurz, C., Secretary. May, 1, 1879. Vol. 6, p. 320.

See SERVICE PENSIONS, WAR OF 1812, par. 1.

6. Soldier died while his claim for pension was pending, leaving a widow and a daughter under sixteen years of age.

After the child attained the age of sixteen years the mother died, and still later the pension was allowed and certificate therefor was issued. *Held*, that the pension which had accrued up to the date of the death of the father should be paid to the daughter.

Therry, Francis. App. No. ——. MacVeagh, Wayne, Attorney-General. August 12, 1881. Vol. 8, p. 386.

7. The claimant, a widow, was pensioned from the date of her husband's death, who had never applied for pension during his lifetime. She claimed that, "because her husband was insane and unable to make an application, her pension should commence from the date of his discharge." This claim was rejected for the reason that the soldier had never applied for pension.

In affirming this action, it was decided that "the pension law exempts the claims of insane persons from any limitation based upon the time of filing. There is, however, no authority for the allowance of the claim of such person in the absence of a properly-executed application made by a guardian. The only law bearing upon the case is contained in section 4718 of the Revised Statutes. That section provides that when an invalid dies, having an application pending, the widow shall be entitled to receive the pension which accrued prior to his death. From the requirement that there must be a pending claim of the invalid in order to give his widow a right to the pension to which his disability entitled him, there is no exception in any case whatever.

Chrich, May. Ct. No. 196,153. Teller, H. M., Secretary. July 22, 1882. Vol. 9, p. 324.

ACCRUED PENSION—Continued.**RULINGS OF THE COMMISSIONER OF PENSIONS.****RULING No. 30. *January, 12, 1877.***

Since the promulgation of ruling defining the application of the words "any pensioner" * * * or "any person entitled to a pension," in section 4718, Revised Statutes, the subject-matter of said ruling has been brought to the attention of the Attorney-General, who has decided that the operation of said section should not be restricted to invalid claimants and pensioners.

See Opinions of the Attorneys-General. Vol. 15, p. 501.

RULING No. 148. *November 18, 1885.*

The provisions of section 4718, Revised Statutes, govern in every case in which the direct beneficiary under a pension certificate has deceased. Alleged wrong and neglect upon the part of the Pension Office or pension agencies do not give rise to title not otherwise conferred by law. The Government is not responsible for the torts or laches of the pension agents.

Malitty Rose. Ctf. No. 3, 259. (Old war.)

ADDITIONAL PAYMASTERS.

See CIVILIANS IN SERVICE OF A QUASI-MILITARY CHARACTER, *par. 1.*

ADMINISTRATORS.

See ABREARS, *par. 2, and ACCRUED PENSION, (Ruling, 148).*

ADULTEROUS COHABITATION.

Act of August 7, 1882.

SEC. 2. That marriages, except such as are mentioned in section forty-seven hundred and five of the Revised Statutes shall be proven in pension cases to be legal marriages according to the law of the place where the parties resided at the time of marriage or at the time when the right to pension accrued; and the open and notorious adulterous cohabitation of a widow who is a pensioner shall operate to terminate her pension from the commencement of such cohabitation.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. Upon a careful consideration of the act of August 7, 1882, it is believed that it was not intended that it should be applied to any other pensioners or applicants for pension than those who claim as widows of soldiers.

McAllister, Eliza, mother of Royal Flint. No. 253,153. Teller, H. M., Secretary. July 19, 1883. Vol. 10, p. 496.

ADULTEROUS COHABITATION—Continued.

2. In the view of the Department, the provisions of the act of August 7, 1882, above referred to, has no affect to deprive a widow of her pension if the adulterous cohabitation ceased before the passage of the act.

Parker, Elsie A. Ctf. No. 180,081. *Joslyn, M. L.*, Acting Secretary. August 23, 1884. Vol. 11, p. 245.

RULINGS OF THE COMMISSIONER OF PENSIONS.**RULING No. 105. May 20, 1885.**

Where soldier died in service, and about the date of his enlistment his mother and father separated, the mother leaving home and joining a man with whom she has continued to live and cohabit to the present time: *Held*, that this relation of mistress and paramour precludes the idea of the dependence of the mother upon the soldier, and her claim, for that reason, should be rejected.

Mother of Walter Ingerich. App. No. 217,181.

RULING No. 113. June 3, 1885.

Pensioner's (widow's) name dropped from the rolls January 1, 1866, because of her assumption of marriage relations with one Creighton. Claim made to restore her name to the rolls from date of dropping to August 7, 1882, the date of the approval of the act of Congress bearing upon the subject: *Held*, that the action by which the pension was terminated was proper, even admitting that the pensioner had not performed such an act as could be held to constitute legal marriage under the laws of the State of Maryland, where she resides.

It clearly has been the intent of Congress at all times, even prior to the passage of the act of August 7, 1882, to discountenance the claims of a certain class of soldiers' widows who dishonor the dead by living in adulterous cohabitation while drawing the pension allowed for the loss of the husband's support. A contrary view would simply have the effect of putting a premium upon a system of prostitution. * * *

Widow of James Lingers. Ctf. No. 188,060.

RULING No. 154. December 4, 1885.

In a case where the widow of a colored soldier since the death of her husband was shown to have given birth to two illegitimate children, one before and one after the passage of the act of August 7, 1882, the Commissioner *Held*, that there could be no stronger proof of open and notorious adulterous cohabitation than the birth, out of wedlock, of two bastards. The case is governed by the provisions of the act above referred to, and should be rejected.

Widow of George Martin. App. No. 270,571.

See REMARRIAGE OF WIDOWS, AND REMARRIAGE OF DEPENDENT MOTHERS,

ADVERSE RECORD.**DECISIONS OF THE SECRETARY OF THE INTERIOR.**

1. A disability which is shown by surgeon's certificate to have existed at enlistment is not pensionable.

Crozier, Henry L. App. No. 112,786. Browning, O. H., Secretary. October 9, 1866. Vol. 2, p. 188.

2. Certificate of disability based on claimant's own statements cannot be held to prejudice his claim if it is shown to have been false.

Wheeler, Montsier. App. No. 210,440. Chandler, Z., Secretary. June 22, 1876. Vol. 4, p. 325.

3. Of the existence of disability prior to enlistment can only be controverted by the positive and cumulative testimony of medical men.

Blew, Nathan. App. No. 171,983. Chandler, Z., Secretary. June 24, 1876. Vol. 4, p. 327. (Vide Terry, Charles. App. No. 208,873. Chandler, Z., Secretary. December 21, 1876. Vol. 4, p. 480.

4. Certificate of disability based upon admission of claimant that disability existed at a period prior to date of enlistment sufficient ground for rejection of application for pension.

Coates, Charles. App. No. 181,136. Schurz, C., Secretary. October 9, 1879. Vol. 7, p. 14.

5. Made by the regimental surgeon, presumably in a position to know the facts, sufficient ground for rejection when (as in case cited) no sufficient evidence is filed to controvert such record.

Carr, John W. App. No. 238,194. Schurz, C., Secretary. February 14, 1880. Vol. 7, p. 218.

6. Where the soldier was discharged upon certificate of disability, made by the surgeon of a general hospital, because of valvular disease of the heart and hypertrophy, existing prior to enlistment, although the source from which said opinion was derived cannot now be determined, it must be presumed, from the history of the case (as from the soldier's direct statement the surgeon found sufficient evidence to warrant him in making such record), and the admissions of the claimant, that he was afflicted with rheumatism in shoulders prior to enlistment: *Held*, upon the facts presented, that the rejection of the claim was proper.

Dillon, John C. App. No. 60,271. Schurz, C., Secretary. February 19, 1880. Vol. 7, p. 221.

7. Where soldier was discharged on certificate of disability, signed by the surgeon of the regiment, on account of cicatrix from cut on foot received prior to enlistment, which certificate is silent as to claimant's allegation that injury was received in the service, the presumption is strong that, if the claimant had been disabled as alleged, the surgeon would have known it and mentioned it in his certificate (dated but a short time after alleged date of injury), taken in connection with claimant's admission that his injury was received prior to enlistment. Rejection *affirmed*.

Harwood, Joseph H. App. No. 224,121. Schurz, C., Secretary. February 27, 1880. Vol. 7, p. 234.

8. Made by a party who was not in a situation which would give him a personal knowledge of the facts may be controverted by other

ADVERSE RECORD—Continued.

evidence, and the claim established by parol testimony, notwithstanding such adverse record.

Nelson, Hendrick. App. No. 237,368. Schurz, C., Secretary. April 2, 1880. Vol. 7, p. 275.
(Vide Wilson, Andrew. App. No. 187,591. Delano, C., Secretary. May 5, 1874. Vol. 3, p. 122.)

9. Where record of the Navy Department shows that the disability for which the party was sent to hospital, and on account of which he claims a pension, was not due to the service and line of duty: *Held*, that mother's claim should be rejected.

Boyle, Richard (Navy). Schurz, C., Secretary. May 8, 1880. Vol. 7, p. 335.

10. Where soldier was discharged on certificate of disability, signed by the surgeon of the regiment, stating that the injury to limb was received in a scuffle with a comrade soon after enlistment, it appearing that such information was derived from a comrade coincident with the accident, and that such injury was received at a date prior to that alleged by the claimant: *Held*, that it may be true that the soldier was injured as claimed, but the testimony furnished (13) years after the date of the alleged occurrence is not sufficient to controvert the record and to show that the injury for which pension is claimed was received in line of duty.

Maek, Lyman. Ctf. No. 150,692. Schurz, C., Secretary. May 18, 1880. Vol. 7, p. 359.

11. Where soldier was discharged upon certificate of disability, signed by the surgeon of his regiment and the captain of his company, stating that the disability for which he was discharged, and for which he claims a pension, existed prior to enlistment: *Held*, that the rejection of the claim was proper.

Bannick, Francis. App. No. 225,932. Schurz, C., Secretary. June 12, 1880. Vol. 7, p. 397.
Vide Taylor, Abel. App. No. 236,308. Schurz, C., Secretary. June 17, 1880. Vol. 7, p. 402.

12. Where claimant was discharged on certificate of disability signed by officers of his company and regiment, stating that "probably" the disability for which he was discharged had its origin prior to enlistment—as he had been unfit for duty all the time he had been in the service—which certificate was corroborated by testimony elicited on special investigation: *Held*, that claim for pension based upon disease alleged to have been contracted in the service, and for which he was discharged, should be rejected.

Dixon, George W. App. No. 193,572. Schurz, C., Secretary. July 15, 1880. Vol. 7, p. 432.

13. Where soldier was discharged upon certificate of disability showing, from his own admissions, that he was not sound, physically, at the date of his enlistment: *Held*, that the testimony of an officer, in conflict with the hospital records, should not be accepted to show origin in line of duty.

Eldred, Zenas. App. No. 261,735. Bell, A., Acting Secretary. September 9, 1880. Vol. 7, p. 438.

ADVERSE RECORD—Continued.

14. Where claimant was discharged on certificate of disability wherein it is stated that disability existed previous to date soldier was drafted, though increased since: *Held*, that the admissions of the claimant made coincident with his discharge cannot be controverted by his statement made from memory years afterwards.

Newdecker, Philip. App. No. 205,590. Bell, A., Acting Secretary. September 17, 1880. Vol. 8, p. 8.

15. A soldier was discharged November 22, 1865, on a certificate of disability signed by the regimental surgeon, because of "inguinal hernia caused by his becoming intoxicated and while undergoing punishment by the gag. He endeavored to liberate himself therefrom in a violent manner." He made no claim for invalid pension and died in December, 1872, of chronic pleuritis. His widow filed her claim and presented testimony tending to show that the cause of his death was "an injury resulting in hernia, which injury he received while on drill, by falling over a stump, instead of having been received as set forth in the certificate of disability." The rejection of the claim "on the ground that the injury which caused the soldier's death was received by him while resisting his superior officer," was affirmed on appeal, it being held that "when it is sought to set aside the weight of an adverse certificate of disability, the testimony on that point should be of the most satisfactory and conclusive character."

O'Donnell, Mary. App. No. 245,696. Teller, H. M., Secretary. March 13, 1884. Vol. 11, p. 174.

16. Positive in its character cannot, after a lapse of years, be set aside by parol testimony.

Gilchrist, Alexander. App. No. 29,286. Schurz, C., Secretary. September 28, 1880. Vol. 8, p. 81.

17. The claimant made a tender of resignation as first lieutenant in consequence of disability as stated in the surgeon's certificate annexed thereto, showing that the disability existed prior to enlistment according to his statements made to the surgeon.

The claimant in an affidavit denies the truth of the certificate and denies that he received the injury in his youth as stated therein. His admissions, however, in his appeal, appear "to corroborate the certificate of disability."

"It shows that Surgeon Dickinson based his statement upon information obtained from the appellant, and it is to be presumed that said statement was the expression of his professional opinion after hearing the whole history of the case. However that may be, the fact that the appellant attached the surgeon's certificate to his letter of resignation shows that he had it in his possession and must have known its contents. By forwarding it as the basis of his application for discharge he gave it his indorsement, so that it became, in effect, his own statement.

Ralston, Isaac T. App. No. 197,078. Joslyn, M. L., Acting Secretary. March 28, 1884. Vol. 11, p. 184.

AFFIDAVITS.*See EVIDENCE.***AGENTS AND ATTORNEYS.***See ATTORNEYS.***AMPUTATION AT HIP-JOINT.****Act of March 3, 1879.**

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all pensioners now on the pension-rolls, or who may hereafter be placed thereon, for amputation of either leg at the hip-joint, shall receive a pension at the rate of thirty-seven dollars and fifty cents per month from the date of the approval of this act.

*See secs. 4697, 4698, R. S.***DECISION OF THE SECRETARY OF THE INTERIOR.**

"By amputation at hip-joint (see act of March 3, 1879) is understood an amputation in which the whole of the thigh-bone is removed from its socket."

*Inman, Wm. Ctf. No. 36,236. Kirkwood, S. J. March 7, 1882. Vol. 9, p. 122.***AMPUTATION AT SHOULDER-JOINT.****Act of March 3, 1865.**

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all soldiers and sailors of the United States who have had an arm taken off at the shoulder-joint, caused by injuries received in the service of their country while in the line of duty, and who are now receiving pensions, shall have their pensions increased to the same amount that the law now gives to soldiers and sailors who have lost a leg at the hip-joint; and this act shall apply to all who shall be hereafter placed on the pension roll.

*See secs. 4697 and 4698, R. S., and act 3 March, 1879.***ANTE-REBELLION CLAIMS.***See OLD WARS.***APPEALS.****DECISIONS OF THE SECRETARY OF THE INTERIOR.**

1. Not allowable after final adjudication of five years, unless new evidence is filed upon which, after consideration, Pension Office declines to change its action.

Widow of Manco C. Dickinson, Navy File No. 537. W. T. Otto, Acting Secretary. September 20, 1897.

APPEALS—Continued.

2. Not allowable when accompanied by additional evidence, until such evidence has first been considered by the Pension Office.

Harrison, W. H. App. No. 70,173. Browning, O. H., Secretary. January 16, 1863. Vol. 2, p. 132.

3. By an attorney who has been suspended from practice not allowable.

Instructions: Cox, J. D., Secretary. October 2, 1869. Vol. 2, p. 197.

4. Should furnish specific grounds therefor in separate letters in each case.

Instructions: Cox, J. D., Secretary. January 14, 1870. Vol. 1, p. 71.

5. Not allowable from accounting officers of Treasury Department after issue of pension certificate.

Osborne, Joseph E. Ctf. No. 103,465. Delano, C., Secretary. July 24, 1871. Vol. 2, p. 204.

6. Reports on, should contain opinion of medical referee on medical questions.

Instructions: Delano, C., Secretary. December 9, 1872. Vol. 1, pp. 225-228.

7. Reports on, should show condition of claim, grounds for action, &c.

Davis, Eli. Ctf. No. 102,276. Delano, C., Secretary. October 20, 1874. Vol. 3, p. 341.

8. Decision on, or purport of, if affirmative, should be furnished claimant or attorney.

Petty, Anna E. App. No. 209,160. Delano, C., Secretary. May 18, 1875. Vol. 4, p. 42.

9. Reports on, wherein the action of the office is based upon voluminous reports of special agents, an abstract of said evidence, brief in form, and so arranged as to show, without labored examination, all the evidence *pro* and *con* procured, should be submitted.

Taylor, Philip. App. No. 46,346. Cowen, B. R., Acting Secretary. January 7, 1876. Vol. 4, p. 176.

10. (1) Where claim has not been adjudicated, appeal will not be entertained. (2) Where claim is fully proved it is not necessary that the evidence be recapitulated in the report. (3) Where the office adheres to its previous adverse action it should state specifically wherein the evidence is deemed insufficient. (4) In case where the office declines to allow the appeal the report should state distinctly the ground for action.

Moore, Charles B. App. No. 189,797. Cowen, B. R., Acting Secretary. January 12, 1876. Vol. 3, p. 429.

11. Notification of the result of appeals should emanate from the office and be forwarded to the attorney, except where the action of the office is overruled by the Department, and in special cases where the Department notifies the appellant direct, in which latter case the office will be advised of the fact.

Instructions: Chandler, Z., Secretary. October 3, 1876. Vol. 4, p. 410.

APPEALS—Continued.

12. Are not to be considered in connection with evidence which has not been presented to the Pension-Office for action.

Whiteside, R. Ctf. No. 132,308. Schurz, C., Secretary. February 13, 1879. Vol. 6, p. 259.

13. Where appeal is taken a report should be made to the Department within fifteen days after its reference.

Instructions: Bell, A., Acting Secretary. August 27, 1879. Vol. 6, p. 482.

14. Reports on, entered by unauthorized persons should be made, but the fact of want of authority on the part of such persons should be noted therein.

Taylor, Robert. App. No. 203,235. Schurz, C., Secretary. December 9, 1880. Vol. 8, p. 65.

RULING BY THE COMMISSIONER OF PENSIONS.

RULING No. 84. March 29, 1885.

When an appeal is taken to the Secretary of the Interior from the action of the Commissioner of Pensions in any claim for pension or bounty-land, nothing further shall be done in the case in the Pension Office until the same shall have received the consideration of the Secretary and have been formally returned with his decision therein.

ARMY AND NAVY ROLLS AND RECORDS, WHERE FOUND.

The rolls and records of services rendered in the Army or Navy of the United States, which are on file in the various Bureaus of the General Government, are distributed as follows:

IN THE OFFICE OF THE ADJUTANT-GENERAL UNITED STATES ARMY.

Rolls of the officers and men of the Regular Army, and generally of all such volunteers as were regularly mustered into the service of the United States.

IN THE OFFICE OF THE SECOND AUDITOR, UNITED STATES TREASURY.

Rolls of volunteers and militia engaged in the Seminole Indian War of 1817-'18; in the Black Hawk Indian war of 1832; in the Florida Indian war of 1835-'42; in the Creek Indian war of 1836-'37; in the Rogue River Indian war of 1853; in the war with Mexico of 1846-'48; in the Utah Indian disturbances, including the Nauvoo Legion (Mormon) of 1850-'51, 1857-'58; in the New Mexico Indian disturbances of 1849 and 1854-'55; and in fact the rolls generally of militia and volunteers for services in all the Indian wars and other disturbances since 1818; also the rolls of various tribes or bands of Indians who have rendered service to the United States; also muster-out rolls of volunteers and regulars; quarterly returns of deceased soldiers and final statements, the rolls of Dartmoor prison, England, of the war of 1812; the records of the Ordnance Corps and duplicates, with some exceptions, of all military rolls on file in the office of the Adjutant-General, United States Army

ARMY AND NAVY ROLLS AND RECORDS, WHERE FOUND—Cont'd.**IN THE OFFICE OF THE THIRD AUDITOR, UNITED STATES TREASURY.**

Rolls of the volunteers and militia engaged in the Northwestern Indian war, (Waynes' war) of 1790, 1795; in the whisky insurrection in Pennsylvania of 1794; in the war with Great Britain of 1812, 1815; and in fact, in all wars and disturbances prior to the close of the war of 1812, (February 17, 1815); in the Rogue River Indian war of 1854-'55; also the rolls of the California volunteers in Indian disturbances of 1850-'51; also the records of quartermasters' employes, including the officers and men of the ram fleet and gunboat flotilla employed on the Mississippi River during the war of the rebellion, and the rolls of the Missouri militia.

IN THE OFFICE OF THE REGISTER OF THE UNITED STATES TREASURY.

Rolls of civilians engaged in the Aroostook disturbance in Maine of 1838-'39.

IN THE OFFICE OF THE FOURTH AUDITOR, UNITED STATES TREASURY.

Pay rolls of officers and seamen of the Navy and flotilla men for all wars, and of officers and men of the Marine Corps, and rolls of California volunteers called into service by Commodore Hull in 1846-'47.

IN THE OFFICE OF THE BUREAU OF NAVIGATION, NAVY DEPARTMENT.

Rolls of officers of the Navy for all periods.

IN THE OFFICE OF THE BUREAU OF EQUIPMENT AND RECRUITING, NAVY DEPARTMENT.

Rolls of seamen for the war of the rebellion and since.

IN THE PENSION OFFICE.

Rolls of the Continental Army of the war of the Revolution, not quite complete for any one of the thirteen original colonies, and very incomplete for some of them; rolls of the militia engaged in the Cayuse Indian war of 1848; copies of the rolls (the originals of which are at Jefferson City, Mo.), of the militia engaged in the Osage Indian war of 1837; also rolls of militia called out at the invasion of Plattsburg, N. Y., in the war of 1812; some rolls of volunteers and militia engaged in the New Mexico disturbances of 1853; in the whisky insurrection of 1794, and other miscellaneous rolls for service at different times and by organizations of various characters.

ARMY AND NAVY ROLLS AND RECORDS, WHERE FOUND—Cont'd.

IN THE OFFICE OF THE ADJUTANT OF THE MARINE CORPS, HEAD-
QUARTERS MARINE BARRACKS, WASHINGTON, D. C.

Rolls of officers and men of the Marine Corps for all periods.

IN THE OFFICE OF THE SURGEON-GENERAL, UNITED STATES ARMY.

Records of hospitals and hospital treatment for all periods, except the regimental hospital records of the volunteers of the late war, which are in the Adjutant-General's Office.

IN THE OFFICE OF THE SURGEON-GENERAL OF THE NAVY OR IN THE
BUREAU OF MEDICINE AND SURGERY, NAVY DEPARTMENT.

The records of all hospital treatment in the Navy, whether on ship-board or in naval hospitals on shore.

IN THE OFFICE OF THE QUARTERMASTER-GENERAL, UNITED STATES
ARMY.

Rolls and records of quartermaster's employes generally, whether serving on land or on board transports or other vessels in the employ of the Quartermaster's Department. .

IN THE DIVISION OF REVENUE MARINE, OFFICE OF THE SECRETARY
OF THE TREASURY, TREASURY DEPARTMENT.

Records of the officers and seamen of the Revenue Marine Service.

ARREARS.

Section 4709, Revised Statutes, repealed, and the following enacted by act approved January 25, 1879.

AN ACT to provide that all pensions on account of death, or wounds received, or disease contracted in the service of the United States during the late war of the rebellion, which have been granted, or which shall hereafter be granted, shall commence from the date of death or discharge from the service of the United States, for the payment of arrears of pensions, and other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all pensions which have been granted under the general laws regulating pensions, or may hereafter be granted, in consequence of death from a cause which originated in the United States service during the continuance of the late war of the rebellion, or in consequence of wounds, injuries, or disease received or contracted in said service during said war of the rebellion, shall commence from the date of the death or discharge from said service of the person on whose account the claim has been or shall hereafter be granted, or from the termination of the right of the party having prior title to

ARREARS—Continued.

such pension: *Provided*, The rate of pension for the intervening time for which arrears of pension are hereby granted shall be the same per month for which the pension was originally granted.

Secs. 4709, and 4710, R. S. Secs. 15, 17, act 3 March, 1873; sec. 5, act 14 July, 1862; sec. 6, act 4 July, 1864; sec. 13, act 6 June, 1866; sec. 6, act 27 July, 1868.

SEC. 2. That the Commissioner of Pensions is hereby authorized and directed to adopt such rules and regulations for the payment of the arrears of pensions hereby granted as will be necessary to cause to be paid to such pensioner, or, if the pensioner shall have died, to the person or persons entitled to the same, all such arrears of pension as the pensioner may be, or would have been, entitled to under this act.

SEC. 3. That section forty-seven hundred and seventeen of the Revised Statutes of the United States, which provides that "no claim for pension not prosecuted to a successful issue within five years from the date of filing the same shall be admitted without record evidence from the War or Navy Department of the injury or the disease which resulted in the disability or death of the person on whose account the claim is made: *Provided*, That in any case in which the limitation prescribed by this section bars the further prosecution of the claim, the claimant may present, through the Pension Office, to the Adjutant-General of the Army or the Surgeon-General of the Navy, evidence that the disease or injury which resulted in the disability or death of the person on whose account the claim is made originated in the service and in the line of duty; and if such evidence is deemed satisfactory by the officer to whom it may be submitted, he shall cause a record of the fact so proved to be made, and a copy of the same to be transmitted to the Commissioner of Pensions, and the bar to the prosecution of the claims shall thereby be removed," be, and the same is hereby, repealed.

Sec. 4717, R. S., repealed. Sec. 4709, R. S., repealed.

SEC. 4. No claim-agent or other person shall be entitled to receive any compensation for services in making application for arrears of pension.

See secs. 4768, 4769, 4786, R. S.

SEC. 5. That all acts or parts of acts so far as they may conflict with the provisions of this act be, and the same are hereby, repealed.

Act of January 25, 1879, amended as follows by act of March 3, 1879.

* * * * *

That the rate at which the arrears of invalid pensions shall be allowed and computed in the cases which have been or shall hereafter be allowed shall be graded according to the degree of the pensioner's disability from time to time, and the provisions of the pension laws in force over the period for which the arrears shall be computed.

ARREARS—Continued.

That section one of the act of January twenty-fifth, eighteen hundred and seventy-nine, granting arrears of pensions, shall be construed to extend to and include pensions on account of soldiers who were enlisted or drafted for the service in the war of the rebellion, but died or incurred disability from a cause originating after the cessation of hostilities, and before being mustered out: *Provided*, That in no case shall arrears of pensions be allowed and paid from a time prior to the date of actual disability.

SEC. 2. All pensions which have been, or which may hereafter be, granted in consequence of death occurring from a cause which originated in the service since the fourth day of March, eighteen hundred and sixty-one, or in consequence of wounds or injuries received, or disease contracted since that date, shall commence from the death or discharge of the person on whose account the claim has been or is hereafter granted, if the disability occurred prior to discharge; and if such disability occurred after the discharge then from the date of actual disability, or from the termination of the right of party having prior title to such pension: *Provided*, The application for such pension has been or is hereafter filed with the Commissioner of Pensions prior to the first day of July, eighteen hundred and eighty, or otherwise the pension shall commence from the date of filing the application; but the limitation herein prescribed shall not apply to claims by or in behalf of insane persons and children under sixteen years of age.

SEC. 3. Section forty-seven hundred and nine of the Revised Statutes is hereby repealed.

Section 4711, Revised Statutes.

It shall be the duty of the Commissioner of Pensions, upon any application by letter or otherwise by or on behalf of any pensioner entitled to arrears of pension under section forty-seven hundred and nine, or if any such pensioner has died, upon a similar application by or on behalf of any person entitled to receive the accrued pension due such pensioner at his death, to pay or cause to be paid to such pensioner, or other person, all such arrears of pension as the pensioner may be entitled to, or, if dead, would have been entitled to under the provisions of that section had he survived.

* * * * *

Sec. 17, 3 March, 1873.

Section 4712, Revised Statutes.

[Extends provisions of former acts to ante-rebellion pensioners.]

See OLD WAERS.

Act of June 9, 1880.

[Provides for restoration of naval pension rates.]

See NAVY.

ARREARS—Continued.**DECISIONS OF THE SECRETARY OF THE INTERIOR.**

1. Due in claims for restoration (renewal) under section 3, act of July 27, 1868.

Wheeler, Agnes. App. No. 2,364. Cox, J. D., Secretary. October 4, 1899. Vol. 2, p. 144.

2. Not due to an executor or administrator if soldier during his lifetime never made application therefor.

Saunders, Isaac B. Ctf. No. 66,982. Cox, J. D., Secretary. November 16, 1899. Vol. 2, p. 146.

3. Not due to the minor of a soldier where soldier during his lifetime made no application therefor.

Conser, William (guardian). App. No. 134,301. Cox, J. D., Secretary. April 15, 1870. Vol. 2, p. 196.

4. Under act of January 25, 1879, not authorized to be collected by Soldiers' Home on assignment or otherwise.

Devens, Charles, Attorney-General. August 19, 1879. Vol. 7, p. 46.

5. Of pension cannot be allowed where original pension was granted by special act.

Woodson, Edwin. Ctf. No. 112,891. Schurz, C., Secretary. September 11, 1879. Vol. 6, p. 459.

Roberts, Jonathan. Ctf. No. 156,734. Schurz, C., Secretary. November 14, 1879. Vol. 7, p. 58.

6. Of pension, under acts of January 25 and March 3, 1879, from date of soldier's discharge to date of his death, not due to widow where soldier himself failed to make application during his lifetime.

Lord, Mary A., widow of Lord, H. E. Ctf. No. 168,864. Schurz, C., Secretary. October 13, 1879. Vol. 7, p. 21. See, also, decision of Attorney-General of the United States affirming this decision. Vol. 7, p. 22.

7. From date of soldier's death to the date of the commencement of the mother's pension, settled under the limitations of act of July 27, 1868 (commencing from the date of filing of last essential evidence), cannot be paid to the father, as section 4718, Revised Statutes, does not authorize the payment to a father of a soldier the pension which accrued to the mother.

Dees, James. Ctf. No. 182,289. Schurz, C., Secretary. October 18, 1879. Vol. 7, p. 28.

8. Appellant served in the Army as hospital steward, and his right to pension accrued upon the passage of the act of June 6, 1866 (section 10), granting pension for such rank. His original application was filed November 20, 1869, within the time prescribed by the act of July 27, 1868, and his claim was adjudicated in August, 1876, to allow him pension from the date of his discharge from service. *Held*, that the acts of January 25 and March 3, 1879, do not, under the circumstances above set forth, confer right to any arrears of pension, and the rejection of his claim for such arrears is *affirmed*.

Knight, Joseph H. Ctf. No. 122,007. Schurz, C., Secretary. February 12, 1880. Vol. 7, p. 314.

ARREARS—Continued.

9. Under acts of January 25 and March 3, 1879, due an invalid pensioner at date of death can only be paid as prescribed by section 4718, Revised Statutes.

Lyle, Peter. Ctf. No. 133,458. Schurz, C., Secretary. May 10, 1880. Vol. 7, p. 335.

10. Beneficiaries under section 4757, Revised Statutes, not entitled to arrears under the acts of January 25 and March 3, 1879.

Pierce, Janus W. (Navy). Ctf. No. 2,316. Schurz, C., Secretary. September 23, 1880. Vol. 8, p. 17.

11. Under the act of June 16, 1880, the difference between \$50 and \$72 will not be paid for any period of time during which the pensioner was not entitled to \$50 per month.

Brown, William T. Ctf. No. 51,281. Schurz, C., Secretary. February 18, 1881. Vol. 8, p. 151. (Acts of June 18, 1874, and June 16, 1880.)

12. Cannot be paid mother of soldier where soldier himself made no application for pension during his lifetime.

See DEPENDENCE (MOTHERS), *par.* 11, and MOTHERS, *par.* 8.

13. Where a soldier, at the time of his death, had a claim for invalid pension pending, on account of an injury to his back and loins, which was subsequently rejected, and his widow was pensioned on account of his death, from chronic diarrhœa, it was held that, inasmuch as the soldier had not alleged, in his declaration, any disability from that disease, his widow was not entitled to pension for any period prior to the date of his death.

William F. Blankenbaker. Ctf. No. 202,665. Kirkwood, S. J., Secretary. January 3, 1882. Vol. 9, p. 55.

14. A soldier was granted pension "from March 26, 1875, the date on which the last piece of evidence necessary to complete the claim was filed" in the Pension Office. "He died June 20, 1875, leaving, it is alleged, a widow and two children by a former wife under sixteen years of age at the time of his death surviving. The widow, by whom the soldier had no child or children, remarried prior to the passage of the acts of January 25 and March 3, 1879, commonly known as the arrears acts. The guardian of the minor children filed a claim for the arrears of pension due on (the soldier's) said certificate from the date of the soldier's discharge to the date of his death, and it was rejected on the ground that the widow of the soldier was entitled to the same."

In affirming this action, on appeal, it was held that, under the provisions of the second section of the act of March 3, 1879, "the soldier, if he had lived, would have been entitled to arrears of pension from the date of his discharge to the date his name was placed on the pension rolls.

"The soldier having died and left surviving a widow, there would seem to be no question but that she is entitled to pension under the provisions of section 4718 of the Revised Statutes."

Cook, Joseph H. Ctf. No. 135,724. Teller, H. M., Secretary. January 16, 1884. Vol. 11, p. 123.

ARREARS—Continued.**FATHER'S CLAIM TO ARREARS UPON DECEASE OF MOTHER PRIOR TO THE PASSAGE OF THE ACTS OF JANUARY 25 AND MARCH 3, 1879.**

The soldier died November 23, 1861. His mother was pensioned from June 7, 1871, the date of filing the last piece of evidence necessary to complete the claim. She died April 4, 1877, and the father was pensioned at that date.

In disposing of the case on appeal, the following language is used, to wit:

"This appeal is made from the action of your office declining to direct the payment, to the father, of the pension which would have been payable to the mother prior to her death if she had been legally entitled to it from the date of the soldier's death to the time her pension was made to commence.

"The mother's claim was adjudicated in accordance with the then existing laws. Had she lived until the passage of the acts of January 25 and March 3, 1879, granting arrears of pensions, she would have been entitled to the accrued pension from the date of her son's death to the time her name was placed on the pension rolls.

"The law provides that the father's pension shall commence from the date of the death of the mother. There is no provision of law under which the appellant could be paid the pension which would have been due to the soldier's mother had she lived until the passage of the acts of Congress before referred to."

Newell, Jane S. Ct. No. 152,257. Joslyn, M. L., Acting Secretary. August 20, 1884. Vol. 11, p. 341. See, also, decision in case of James Dees, par. 7, under head of Arrears.

ARREARS OF INCREASE. MINORS' PENSIONS.

The soldier died October 19, 1864. His widow filed her claim for pension February 2, 1865, and was pensioned at the rate of \$8 per month from the date of his death, and was subsequently granted an increase of \$2 per month on account of each of three children under sixteen years of age, commencing July 25, 1866, the date of the passage of the act for that purpose.

"Two of the children arrived at the age of sixteen years "before the remarriage of the widow, viz, December 19, 1875, and the third one was pensioned to the date he attained the age of sixteen years, viz, July 1, 1878."

These minors filed claims for arrears of increase of pension from the date of the soldier's death to July 25, 1866, the date of the widow's increase, claiming title thereto, under the provisions of the 1st section of the act of January 25, 1879.

In deciding this case on appeal, the following language is used, viz: "Section 4703, Revised Statutes, provides that the pensions of widows

ARREARS—Continued.

shall be increased at the rate of two dollars per month for each child under sixteen years of age, to commence July 25, 1866.

"The Department holds that no act of Congress passed subsequent to July 25, 1866, fixes the date of commencement of the increase of widow's pension, prior to July 25, 1866, the date of the passage of the act granting such increase. It appears that your office has paid all pensions due the heirs of Frederick M. Dunn. Your action is affirmed."

Dunn, Frederick M., minors of. Ctf. No. 179,146. Teller, H. M., Secretary. January 27, 1885
Vol. 11, p. 420.

RATING OF ARREARS.

The office should not be governed so much by the rating made in figures by the examining surgeon as by his description of the disabilities found to exist.

Billings, Irving W. Ctf. No. 132,243. Schurz, C., Secretary. October 25, 1879. Vol. 7, p. 26.

READJUSTMENT OF RATING FOR ARREARS.

Requirement of the office for additional evidence showing the extent of the disability for the period to which the appeal relates is proper.

Fisher, Charles H. Ctf. No. 154,139. Schurz, C., Secretary. October 24, 1879. Vol. 7, p. 33.

ARTIFICIAL LIMBS.**Section 4787, Revised Statutes.**

Every officer, soldier, seaman, and marine who was disabled during the war for the suppression of the rebellion, in the military or naval service, and in the line of duty, or in consequence of wounds received or disease contracted therein, and who was furnished by the War Department, since the seventeenth day of June, eighteen hundred and seventy, with an artificial limb or apparatus for resection, who was entitled to receive such limb or apparatus since said date, shall be entitled to receive a new limb or apparatus at the expiration of every five years thereafter, under such regulations as have been or may be prescribed by the Surgeon-General of the Army.

Sec. 14, 27 July, 1864; sec. 1, 17 June, 1870; act 30 June, 1870; secs. 1, 3, 6 June, 1872; see sec. 1177 R. S.; see sec. 1, act 15 Aug., 1876; see act 27 February, 1877.

Amended by act of February 27, 1877 (par. 168, 169 and 170) by adding at the end of the section, the following:

"The provisions of this section shall apply to all officers, non-commissioned officers, enlisted and hired men of the land and naval forces of the United States, who, in the line of their duty as such, shall have lost limbs or sustained bodily injuries depriving them of the use of any of their limbs, to be determined by the Surgeon-General of the Army; and the term of five years herein specified shall be held to commence

ARTIFICIAL LIMBS—Continued.

in each case with the filing of the application for the benefits of this section."

Section 4788, Revised Statutes.

Every person entitled to the benefits of the preceding section may, if he so elects, receive, instead of such limb or apparatus, the money value thereof, at the following rates, namely: For artificial legs, seventy-five dollars; for arms, fifty dollars; for feet, fifty dollars; for apparatus for resection, fifty dollars.

Sec. 1, 17 June, 1870; sec. 1, 8 June, 1872; see sec. 1, 15 Aug., 1876, and sec. 4787 R. S.

Section 4789, Revised Statutes

Superseded by section 1, act of August 15, 1876, as follows:

AN ACT to regulate the issue of artificial limbs to disabled soldiers, seamen, and others.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That every officer, soldier, seaman and marine, who, in the line of duty, in the military or naval service of the United States, shall have lost a limb, or sustained bodily injuries, depriving him of the use of any of his limbs, shall receive once every five years an artificial limb or appliance, or commutation therefor, as provided and limited by existing laws, under such regulations as the Surgeon-General of the Army may prescribe; and the period of five years shall be held to commence with the filing of the first application after the seventeenth day of June, in the year eighteen hundred and seventy.

Secs. 4787, 4788, 4789, 4790, 4791, R. S.

SEC. 2. That necessary transportation to have artificial limbs fitted shall be furnished by the Quarter-master General of the Army, the cost of which shall be refunded out of any money appropriated for the purchase of artificial limbs: *Provided*, That this act shall not be subject to the provisions of an act entitled "An act to increase pensions," approved June eighteenth, eighteen hundred and seventy-four.

Section 4790, Revised Statutes.

As amended by par. 169, act of February 27, 1877.

Every person in the military or naval service who lost a limb during the war of the rebellion, or is entitled to the benefits of section forty-seven hundred and eighty-seven, but from the nature of his injury is not able to use an artificial limb, shall be entitled to the benefits of section forty-seven hundred and eighty-eight, and shall receive money-commutation as therein provided.

Sec. 3, 17 June, 1870; sec. 1, 8 June, 1872; see sec. 1, 15 August, 1876; act 27 February, 1877.

ARTIFICIAL LIMBS—Continued.**Section 4791, Revised Statutes**

The Secretary of War is authorized and directed to furnish to the persons embraced by the provisions of section forty-seven hundred and eighty-seven transportation to and from their homes and the place where they may be required to go to obtain artificial limbs provided for them under authority of law.

Act 28 July, 1866; sec. 2, 8 June, 1872; see sec. 2, 15 August, 1876; act 27 February, 1877.

Amended by par. 170, act of February 27, 1877, by adding at the end of the section the following:

"The transportation allowed for having artificial limbs fitted shall be furnished by the Quartermaster-General of the Army, the cost of which shall be refunded from the appropriations for invalid pensions."

DECISIONS OF THE SECRETARY OF THE INTERIOR.**1. Title to, forfeited by pensioners under act of July 18, 1874.**

Daniel McMahon. Ctf. No. 69,294. C. Delano, Secretary. September 24, 1875. Vol. 4, p. 123.

2. Payment for, to be made from the appropriation for invalid pensions, under act of March 1, 1875, and the act of June 8, 1872, is not considered as repealed by section 4787, Revised Statutes.

Instructions: Cowen, B. R., Acting Secretary. May 26, 1875. Vol. 4, p. 54.

3. Appropriation for, under act of March 3, 1881, must be expended under the direction of the Secretary of the Interior by the pension agents.

Instructions: Bell, A., Acting Secretary. August 8, 1881. Vol. 8, p. 372.

ATHLETIC SPORTS.

See LINE OF DUTY, *par.* 10.

ATTORNEYS.**Section 190, Revised Statutes.**

"It shall not be lawful for any person appointed after the first day of June, one thousand eight hundred and seventy-two, as an officer, clerk, or employé in any of the Departments, to act as counsel, attorney, or agent for prosecuting any claim against the United States, which was pending in either of said Departments while he was such officer, clerk, or employé, nor in any manner, nor by any means, to aid in the prosecution of any such claim, within two years next after he shall have ceased to be such officer, clerk, or employé."

Sec. 5, act 1 June, 1872.

ATTORNEYS—Continued.**DECISIONS OF THE SECRETARY OF THE INTERIOR.**

DEPARTMENT OF THE INTERIOR,

Washington, D. C., September 17, 1885.

The COMMISSIONER OF THE GENERAL LAND OFFICE:

SIR: In response to yours of the 14th instant, section 190 of the Revised Statutes has neither been amended nor repealed, and you, in common with every other officer in this Department, are instructed to see that it be faithfully observed and enforced.

No officer, employé, or clerk whose appointment is subsequent in date to the first day of June, 1872, and who has not been out of office two years or more is permitted to appear as attorney in the prosecution of any claim against the United States which was pending while he was in office; and if it shall come to your knowledge that any such former officer, knowingly and intentionally shall prosecute, or attempt to prosecute any such claim you will please report the fact to me, and proper action will be taken in reference thereto.

Very respectfully,

L. Q. C. LAMAR,

Secretary.

DEPARTMENT OF THE INTERIOR,

Washington, October 6, 1885.

The COMMISSIONER OF THE GENERAL LAND OFFICE:

SIR: I have received a letter from Luther Harrison, esq., late Acting Commissioner of the General Land Office, purporting to be an appeal from your action as Commissioner of the General Land Office, in refusing to recognize him as an attorney in certain matters pending before that office. The facts in this case are shown in the following correspondence:

*"WASHINGTON, D. C., September 22, 1885.**"Hon. WM. A. J. SPARKS,**"Commissioner General Land Office :*

"SIR: I was informed yesterday that you had instructed your chiefs of divisions that I was not permitted to appear in any case pending while I was in the employ of the General Land Office, and that in such cases I should be denied access to the papers and not advised of the action of the office respecting them.

"This action, I presume, was had under some supposed authority contained in the letter of the Hon. Secretary of the Interior to you, of 17th instant, directing, in response to your inquiry, an enforcement by you of section 190 of the Revised Statutes, prescribing the terms and conditions upon which certain persons, previously employed by the Government, may prosecute claims against it.

ATTORNEYS—Continued.

"This action on your part is not justified either by the law or the Secretary's letter referred to, and I respectfully request that you reconsider it.

"The rights, privileges, and liberties of an American citizen, as guaranteed by the Constitution of our common country, are a priceless heritage left him by his forefathers, and should not be trampled upon to satisfy the whim and selfish greed of persons who have been agitating this matter, and who, but for the limitation of two years, during which time they enjoyed a lucrative practice, would now come within the provisions of the law. It is a serious thing to deprive a man of his only means of earning a livelihood for himself and family, and should not be done except for some crime committed, or unprofessional conduct, and this branch of the case appeals to you upon other grounds which I need only mention to be understood.

"I claim also that section 190 of the Revised Statutes has no application to my case, because it provides that 'It shall not be lawful for any person appointed after the first day of June, one thousand eight hundred and seventy-two, as an officer, clerk, or employé in any of the Departments to act as counsel, attorney, or agent for prosecuting any claim against the United States which was pending in either of said Departments while he was such officer, clerk, or employé, nor in any manner, nor by any means, to aid in the prosecution of such claims within two years next after he shall have ceased to be such officer, clerk, or employé.

"This law clearly contemplates that any person who was not in the employ of the Government on the first day of June, 1872, but was thereafter appointed to office, should not be permitted to prosecute any claim against the Government which was pending while he was in office within two years next after he shall have severed his official relations with the Government.

"This is apparent for the reason that the Constitution, under the head of 'Limitations of the power of Congress,' in express terms provides:

"'No bill of attainder or *ex post facto* law shall be passed.' (Art. 1, section IX, paragraph 3.)

"At the date fixed by the law, June 1, 1872, I was a third class-clerk in the General Land Office, and from that time, and before, to the 31st of August, 1885, I was continuously employed in that office. It is true, however, that I did not continue in that grade. The record shows, that January 31, 1880, I was commissioned by the President to be principal clerk on private land claims; September 20, 1882, was appointed by Secretary to be chief clerk, and July 9, 1884, was commissioned by the President to be Assistant Commissioner. My employment, however, has been continuous from the date of my original appointment, December 9, 1865, to the 31st of August 1885, when my resignation of the

ATTORNEYS—Continued.

office of Assistant Commissioner took effect, and the record will also show that I have been paid for every day during that period. The various positions which I have filled since the 9th day of December, 1865, were a continuation of the original appointment which was then made, and which was the foundation of and key to my entrance into the public service as a first class clerk, and they have always been considered promotions from that grade.

"I hope you will give this subject that serious consideration which it merits at your hands and advise me promptly of your decision.

"Respectfully,

"L. HARRISON."

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., September 23, 1885.

Hon. L. HARRISON :

DEAR SIR : Yours of the 22d instant before me. In reply, I beg to say that I transmitted to the chiefs of the various divisions of the General Land Office a copy of the "Secretary's Instructions" in relation to persons who had been officials of the office practicing as attorneys therein, with directions that they should cause the same to be strictly complied with.

In this I certainly have neither deprived nor attempted to deprive you of any of your constitutional and legal rights, nor have I thereby indicated any unkindly treatment toward you personally, but simply, as I conceive it, have discharged my official duty under the law, to the head of the Department under which I serve.

It is not unknown to you that it has been, and is, my earnest desire and determination, so far as in me lies, to do away with the loose practices that have heretofore existed in the General Land Office.

In this I shall continue, prompted by the sole desire to discharge a duty, and certainly regretting if in doing this anybody shall feel that they have cause of grievance, or that it is aimed at them in any spirit of unkindness or malevolence.

Very truly,

WM. A. J. SPARKS,
Commissioner.

In a communication addressed to me, as Secretary of the Interior, dated September 30, and entitled as stated at the beginning of this paper, Mr. Harrison says :

"It will be observed that the Commissioner does not directly decide whether my case as presented to him falls within the provisions of the law, yet in view of what I had stated as his action in the matter, he, by inference, decides that it does, and there can be no doubt about this,

ATTORNEYS—Continued.

for in his letter he says, without qualification, that the directions given were with reference to persons practicing who had been previously officials of the office, and that he had simply, as he conceived it, discharged his official duty under the law to the head of the Department, thus denying a reconsideration of his action. * * *

"I now respectfully appeal to you, and as grounds therefor state:

"(1) That section 190 Revised Statutes should be held to apply only to the prosecution of claims for money.

"(2) That it has no application in the practice before the General Land Office except in cases involving the payment of money.

"(3) That in my case the law has no application whatever."

In the course of his argument Mr. Harrison contends that he should be excepted from the operations of the statute, for the following reasons:

"I was then, and for some years previous, employed in the General Land Office. From date of my original appointment to the 1st instant I was not for a day, an hour, or an instant out of such employment. It is true that my salary was increased by promotion to higher grades, and that I performed different duties at different times. It is also true that these promotions were made by new appointments. I contend, however, that it was the clear intent of the statute to except from its operations any person who on June 1, 1872, was an officer, clerk, or employé in any Department, and who continuously thereafter remained in such Department up to his severance of official relations, following which he might seek to practice as an attorney."

OPINION.

The question presented is, whether a person who holds his appointment as an officer, clerk, or employé of the Department of the Interior may act as counsel, attorney, or agent for prosecuting any claim against the United States in that Department while he was such officer, clerk, or employé, or can in any manner, or by any means, aid in the prosecution there of such claim, until two years have expired since the dissolution of his official connection with that Department.

The act of Congress of 1872 (section 190 of the U. S. Revised Statutes) reads as follows:

"It shall not be lawful for any person appointed after the first day of June, one thousand eight hundred and seventy-two, as an officer, clerk, or employé in any of the Departments, to act as counsel, attorney, or agent for prosecuting any claim against the United States which was pending in either of said Departments while he was such officer, clerk, or employé, nor in any manner, nor by any means, to aid in the prosecution of any such claim, within two years next after he shall have ceased to be such officer, clerk, or employé."

The prohibition of this statute is unconditional, and comprehends in its terms all of the Departments of the Government, every case of the

ARREARS—Continued.**DECISIONS OF THE SECRETARY OF THE INTERIOR.**

1. Due in claims for restoration (renewal) under section 3, act of July 27, 1868.

Wheeler, Agnes. App. No. 3,364. Cox, J. D., Secretary. October 4, 1869. Vol. 2, p. 144.

2. Not due to an executor or administrator if soldier during his lifetime never made application therefor.

Saunders, Isaac B. Ctf. No. 66,982. Cox, J. D., Secretary. November 16, 1869. Vol. 2, p. 146.

3. Not due to the minor of a soldier where soldier during his lifetime made no application therefor.

Conser, William (guardian). App. No. 134,301. Cox, J. D., Secretary. April 15, 1870. Vol. 2, p. 198.

4. Under act of January 25, 1879, not authorized to be collected by Soldiers' Home on assignment or otherwise.

Devens, Charles, Attorney-General. August 19, 1879. Vol. 7, p. 46.

5. Of pension cannot be allowed where original pension was granted by special act.

Woodson, Edwin. Ctf. No. 112,891. Schurz, C., Secretary. September 11, 1879. Vol. 6, p. 459.

Roberts, Jonathan. Ctf. No. 156,734. Schurz, C., Secretary. November 14, 1879. Vol. 7, p. 58.

6. Of pension, under acts of January 25 and March 3, 1879, from date of soldier's discharge to date of his death, not due to widow where soldier himself failed to make application during his lifetime.

Lord, Mary A., widow of Lord, H. E. Ctf. No. 163,364. Schurz, C., Secretary. October 13, 1879.

Vol. 7, p. 21. See, also, decision of Attorney-General of the United States affirming this decision. Vol. 7, p. 22.

7. From date of soldier's death to the date of the commencement of the mother's pension, settled under the limitations of act of July 27, 1868 (commencing from the date of filing of last essential evidence), cannot be paid to the father, as section 4718, Revised Statutes, does not authorize the payment to a father of a soldier the pension which accrued to the mother.

Dees, James. Ctf. No. 182,289. Schurz, C., Secretary. October 18, 1879. Vol. 7, p. 28.

8. Appellant served in the Army as hospital steward, and his right to pension accrued upon the passage of the act of June 6, 1866 (section 10), granting pension for such rank. His original application was filed November 20, 1869, within the time prescribed by the act of July 27, 1868, and his claim was adjudicated in August, 1876, to allow him pension from the date of his discharge from service. *Held*, that the acts of January 25 and March 3, 1879, do not, under the circumstances above set forth, confer right to any arrears of pension, and the rejection of his claim for such arrears is *affirmed*.

Knight, Joseph H. Ctf. No. 122,007. Schurz, C., Secretary. February 12, 1880. Vol. 7, p. 314.

ARREARS—Continued.

9. Under acts of January 25 and March 3, 1879, due an invalid pensioner at date of death can only be paid as prescribed by section 4718, Revised Statutes.

Lyle, Peter. Ctf. No. 133,458. Schurz, C., Secretary. May 10, 1880. Vol. 7, p. 335.

10. Beneficiaries under section 4757, Revised Statutes, not entitled to arrears under the acts of January 25 and March 3, 1879.

Pierce, Janus W. (Navy). Ctf. No. 2,316. Schurz, C., Secretary. September 23, 1880. Vol. 8, p. 17.

11. Under the act of June 16, 1880, the difference between \$50 and \$72 will not be paid for any period of time during which the pensioner was not entitled to \$50 per month.

Brown, William T. Ctf. No. 51,281. Schurz, C., Secretary. February 18, 1881. Vol. 8, p. 151.
(Acts of June 18, 1874, and June 16, 1880.)

12. Cannot be paid mother of soldier where soldier himself made no application for pension during his lifetime.

See DEPENDENCE (MOTHERS), *par.* 11, and MOTHERS, *par.* 8.

13. Where a soldier, at the time of his death, had a claim for invalid pension pending, on account of an injury to his back and loins, which was subsequently rejected, and his widow was pensioned on account of his death, from chronic diarrhœa, it was held that, inasmuch as the soldier had not alleged, in his declaration, any disability from that disease, his widow was not entitled to pension for any period prior to the date of his death.

William F. Blankenbaker. Ctf. No. 262,665. Kirkwood, S. J., Secretary. January 2, 1882. Vol. 9, p. 55.

14. A soldier was granted pension "from March 26, 1875, the date on which the last piece of evidence necessary to complete the claim was filed" in the Pension Office. "He died June 20, 1875, leaving, it is alleged, a widow and two children by a former wife under sixteen years of age at the time of his death surviving. The widow, by whom the soldier had no child or children, remarried prior to the passage of the acts of January 25 and March 3, 1879, commonly known as the arrears acts. The guardian of the minor children filed a claim for the arrears of pension due on (the soldier's) said certificate from the date of the soldier's discharge to the date of his death, and it was rejected on the ground that the widow of the soldier was entitled to the same."

In affirming this action, on appeal, it was held that, under the provisions of the second section of the act of March 3, 1879, "the soldier, if he had lived, would have been entitled to arrears of pension from the date of his discharge to the date his name was placed on the pension rolls.

"The soldier having died and left surviving a widow, there would seem to be no question but that she is entitled to pension under the provisions of section 4718 of the Revised Statutes."

Cook, Joseph H. Ctf. No. 125,794. Teller, H. M., Secretary. January 16, 1884. Vol. 11, p. 122.

ATTORNEYS—Continued.

thereafter appointed as officer, clerk, or employé in any of the Departments must accept their appointments and commissions subject to the conditions prescribed. This purpose is just as applicable to one who has accepted a distinct appointment to a new and better position since the date fixed, as to one newly introduced to the service. Those officers of the Department who have been appointed to another grade and commissioned are included in the prohibitions of the act. They clearly apply to one who, like Mr. Harrison, has accepted and held an office by appointment of the President, by and with the advice and consent of the Senate, when at the time specified by the statute he was employed merely in a clerical capacity.

Your action is approved.

Very respectfully,

L. Q. C. LAMAR,
Secretary.

ORDER.]

DEPARTMENT OF THE INTERIOR,
Washington, D. C., October 21, 1885.

By virtue of the authority conferred upon the Secretary of the Interior by the act of the 4th of July, 1884, it is hereby prescribed:

That no person who has been an officer, clerk, or employé of this Department within two years prior to his application to appear, in any case pending therein, shall be recognized or permitted to appear as an attorney or agent in any such case as shall have been pending in the Department at or before the date he left the service.

Provided, this rule shall not apply to officers, clerks, or employés of the Patent Office, nor to cases therein.

Sec. 5, act 4 July, 1884.

L. Q. C. LAMAR,
Secretary.

Section 5485, Revised Statutes.

Any agent or attorney or any other person instrumental in prosecuting any claim for pension or bounty land, who shall directly or indirectly contract for, demand, or receive or retain any greater compensation for his services or instrumentality in prosecuting a claim for pension or bounty land than is provided in the Title pertaining to pensions, or who shall wrongfully withhold from a pensioner or claimant the whole or any part of the pension or claim allowed and due such pensioner or claimant, or the land warrant issued to any such claimant, shall be deemed guilty of a high misdemeanor, and, upon conviction thereof, shall for every such offense be fined not exceeding five hundred dollars, or imprisonment at hard labor not exceeding two years, or both, at the discretion of the court." [Re enacted in appropriation bill for fiscal year ending June 30, 1882, approved March 3, 1881.]

Sec. 31, 3 March, 1873.

ATTORNEYS—Continued.**Section 5498, Revised Statutes**

"Every officer of the United States, or person holding any place of trust or profit, or discharging any official function under, or in connection with, any executive department of the Government of the United States, or under the Senate or House of Representatives of the United States, who acts as an agent or attorney for prosecuting any claim against the United States, or in any manner, or by any means, otherwise than in discharge of his proper official duties, aids or assists in the prosecution or support of any such claim, or receives any gratuity, or any share of or interest in any claim from any claimant against the United States, with the intent to aid or assist, or in consideration of having aided or assisted, in the prosecution of such claim, shall pay a fine of not more than five thousand dollars or suffer imprisonment not more than one year, or both."

Sec. 2, 26 February, 1853.

Section 5, Act of July 4, 1884.

"That the Secretary of the Interior may prescribe rules and regulations governing the recognition of agents, attorneys, or other persons representing claimants before his Department, and may require of such persons, agents, and attorneys, before being recognized as representatives of claimants, that they shall show that they are of good moral character and in good repute, possessed of the necessary qualifications to enable them to render such claimants' valuable service, and otherwise competent to advise and assist such claimants in the presentation of their claims; and such Secretary may, after notice and opportunity for a hearing, suspend or exclude from further practice before his Department any such person, agent, or attorney shown to be incompetent, disreputable, or who refuses to comply with the said rules and regulations, or who shall, with intent to defraud in any manner, deceive, mislead, or threaten any claimant, or prospective claimant, by word, circular, letter, or by advertisement." * * *

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. Declarations or evidence inadmissible if executed before attorney of record.

Instructions: Smith, C. B., Secretary, May 19, 1862. (See Interior Department record for copy of decision.)

Stclair, Wm. A. App. No. 29,827. Chandler, Z., Secretary. July 5, 1876. Vol. 4, p. 332.

2. No change of, allowed where claim has been completed except for cause.

Instructions: Harlan, James, Secretary. August 6, 1866. Vol. 2, p. 187.

Smith, Jesse E. App. No. 23,948 (1812). Schurz, C., Secretary. November 30, 1878. Vol. 4, p. 172.

(*Vide* Eames, Samuel. App. No. 17,013 (1812). Schurz, C., Secretary. December 2, 1878.

Vol. 6, p. 173.)

ATTORNEYS—Continued.

3. Have no lien on pension certificate or claim on pension money.

Fowler, Wm. L. App. No. 97,827: Cox, J. D., Secretary. August 31, 1869. Vol. 2, p. 126.

4. Have no right of appeal while suspended from practice.

Instructions: Cox, J. D., Secretary. October 2, 1869. Vol. 1, p. 70.

5. Negligence of, in filing application does not relieve claim from limitation.

Stevens, Sarah H. App. No. 185,627. Delano, C., Secretary. November 21, 1870. Vol. 2, p. 203.

6. Oath of, and power of attorney must be filed before they can be recognized.

Instructions: Delano, C., Secretary. July 5, 1872. Vol. 1, p. 204.

7. Change of, allowed when original attorney neglects to prosecute claim.

McKim, Elizabeth. App. No. 6,443. Delano, C., Secretary. September 16, 1874. Vol. 3, p. 302.

Yeamans, Ellaha. App. No. 4,850. Delano, C., Secretary. December 11, 1874. Vol. 3, p. 411.

8. Abstracts furnished to, should exclude record, medical, and confidential evidence.

Miller, Isaac. App. No. 165,878. Delano, C., Secretary. September 12, 1874. Vol. 3, p. 311.

9. Should be furnished with decision or purport of same if affirmative.

Instructions: Delano, C., Secretary. May 18, 1875. Vol. 4, p. 42.

10. Decisions of Department will not be discussed with attorneys.

Stevens, Milo B., & Co., attorneys. Delano, C., Secretary. September 11, 1875. Vol. 4, p. 114.

11. Knowingly employing one as sub-agent or correspondent who has been prohibited from practice are subject to suspension.

Arnheim, Gustave. Gorham, Chas. F., Acting Secretary. August 1, 1876. Vol. 4, p. 350.

12. Power of substitution or new power of attorney from claimant must be filed in any claim transferred from one attorney to another.

Penniman, J. L., attorney. Chandler, Z., Secretary. August 12, 1876. Vol. 4, p. 365.

13. Dropping of name from roll of attorneys practicing before Pension Office upon the ground that the party attempted to establish a fraudulent pension in his own behalf *approved*.

Rothenbiller, Joseph. Ctf. No. 104,046. Bell, A., Acting Secretary. May 15, 1877. Vol. 5, p. 107.

14. It should be made to appear that the person signing a firm's name to the transfer of a case had the authority to do so.

Parks, Alexander. Ctf. No. 152,548. Schurz, C., Secretary. June 27, 1878. Vol. 6, p. 9.

15. Cannot be furnished with copy of certificates of disability. This is the uniform practice of the office.

Patten, James. App. No. 176,129. Schurz, C., Secretary. July 3, 1880. Vol. 17, p. 420.

NOT RECOGNIZED IN CLAIMS FOR INCREASE UNDER ACT OF MARCH 3, 1883.

16. An invalid pensioner entitled to increase under the provisions of the act of March 3, 1883, filed, through his attorneys, a formally executed

ATTORNEYS—Continued.

application therefor. This office refused to recognize the application or the attorneys, and returned the application to the pensioner, and at the same time forwarded to him a copy of the rules and regulations of this office, issued, with the approval of the Secretary of the Interior, on the 5th day of March, 1883, to the effect that no formal claim was needed, and that no agent or attorney would be recognized, and that all that was needed was the return to the Commissioner of Pensions the pension certificate with the then post-office address of the pensioner.

This action was approved, on appeal, and the following language is used, viz: "The object of the regulations adopted by your (the Pension) Office, and approved by this Department March 5, 1883, was to secure to the pensioner the full benefits of the law of 1883, by the most direct and simple mode possible, and free of expense to the recipient. The rule is believed to be founded in strict justice to the soldier, and will be adhered to."

Perkins, Cyrus, Ct. No. 63,519. Joslyn, M. L., Acting Secretary. June 21, 1883. Vol. 10, p. 406.

**NOT RECOGNIZED TO OBTAIN COPIES OF CERTIFICATES OF DISCHARGE
FROM SERVICE IN THE MEXICAN WAR.**

17. The Pension Office, in compliance with its uniform practice, having refused to recognize an attorney authorized by the claimant to obtain a copy of his discharge from service as a soldier in the Mexican war, in his decision, addressed to the Commissioner of Pensions on the appeal of the attorney from such refusal, the honorable Secretary uses the following words, viz: "In the absence of any statutory provision, all questions pertaining to the recognition of attorneys in such cases as this must be necessarily left to your discretion, and in this instance I see no reason why you should depart from the established practice of your office."

Detrich, Joseph. B.L.W. No. 39,273. Teller, H. M., Secretary. February 10, 1885. Vol. 11 p. 433.

See ACT OF JULY 4, 1884.

ATTORNEYS' FEES.

See FEES OF AGENTS AND ATTORNEYS.

ATTORNEYS IN CLAIMS OF INDIANS.

1. Not recognized.

Young Duck, Alsey. Delano, C., Secretary. May 2, 1873.

2. Recognized. When it appears that the claimants are not reservation Indians, not under the authority of any United States Indian agent, and the consent of the Commissioner of Indian Affairs having first been obtained to the recognition of such attorney.

Chandler, Ky. App. No. 525,882. Muldrow, H. L., Acting Secretary. June 8, 1885. Vol. 12, p. 16.

ATTORNEYS—Continued.**ATTORNEYS IN CLAIMS FOR SERVICE PENSIONS, WAR OF 1812.**

See SERVICE PENSIONS, WAR OF 1812, par. 3.

ATTORNEYS, SUSPENSION OF.

1. There is no authority of law for the chief of a Bureau to suspend an attorney without the approval of the Department. Whenever an attorney is charged with improper practices in prosecuting claims before a Bureau, the chief thereof shall investigate the matter, giving such attorney due notice, that he may be heard in the premises. When the investigation shall have been concluded, the facts shall be reported to the head of the Department for consideration. During the investigation into the conduct of an attorney for improper practices he shall be recognized in claims before the Bureau in his capacity as attorney, unless, for special reasons, communicated to the head of the Department, he shall be suspended. Whenever the chief of a Bureau receives notice from the head of another Department of the suspension of an attorney, such notice will at once be transmitted to the head of the Department for action. All suspensions of the character heretofore mentioned made prior to October 19, 1875, may be considered as approved, but if any attorneys since said date have been suspended without the knowledge of the Department, the papers in such cases should be submitted for consideration.

Instructions: Chandler, Z., Secretary. March 3, 1876. Vol. 4, p. 321.

2. The (preceding) instructions of March 3, 1876, are modified, so far as they relate to the Pension Office, as follows: Whenever an attorney is charged with, or suspected of, improper practices in the prosecution of claims before the Pension Office, the fact should be reported to the Secretary of the Interior for his action. If the Secretary orders the suspension of such attorney, the Commissioner of Pensions will notify the attorney of such action, and inform him that until he shall prove the charges false upon which the order of suspension was issued he will not be recognized as an attorney by the Pension Office or the Bureaus of the Interior Department. The proof submitted by such agent or attorney for removing the charges shall be forwarded to the Commissioner of Pensions, who shall have authority to call for further testimony if deemed necessary, and shall finally report the same to the Secretary of the Interior, with his opinion in the premises. Whenever the Commissioner of Pensions shall receive notice of the suspension of an attorney or claim-agent by the head of another Department, such notice will at once be transmitted to the Department for its action.

Chandler, Z., Secretary. May 31, 1876. Vol. 4, p. 305.

3. The Department only has authority to communicate to other Departments the fact of the suspension of an attorney, and such commu-

ATTORNEYS—Continued.

nication should not be made until such attorney has failed to prove his innocence.

Dirks, Rudolph. Chandler, Z., Secretary. August 10, 1876. Vol. 4, p. 361.

4. The notice to them should state that such action has been taken "by direction of the Secretary of the Interior."

Instructions: Chandler, Z., Secretary. August 11, 1876. Vol. 4, p. 363.

RULINGS OF THE COMMISSIONER OF PENSIONS.

RULING No. 53. *December 31, 1866.*

"Only a duly executed power of attorney confers upon an agent the right to appear in a case, or to receive any information therein."

RULING No. 54. *January 29, 1872.*

"The original attorney, having power of substitution, may transfer his authority to act in lieu or in behalf of a claimant to a second party, but cannot give to said second party power of substitution of or transfer to a third party, unless the power of attorney given by the principal to him, the first attorney, provides therefor in express terms.

The power delegated by a claimant to another party to act in his stead must return to the claimant, when such second party ceases to act within or acts without the limits specified in the original contract or power of attorney."

RULING No. 83. *March 29, 1885.*

"A notary public or justice of the peace who is attorney of record in a claim for pension cannot be accepted as a witness in said claim unless he renounces his power of attorney therein."

RULING No. 147. *November 16, 1885.*

To "call up a case" is not, *per se*, a substantial compliance with a requirement of the Pension Office when an attorney is called upon to furnish the evidence necessary to substantiate it.

A "call slip" will not give an attorney the benefit of Order No. 83 unless proper cause is shown, of his own motion, why the Office requirement is not complied with.

Order No. 83 will not be construed by the Commissioner as limiting his discretion to decide, in any case, what is or is not due diligence.

ORDERS OF THE COMMISSIONER OF PENSIONS.

ORDER No. 1. *September 26, 1866.*

No citizen of any foreign government, residing for the time without the jurisdiction of the United States, will be recognized as a claim agent by this office.

ORDER No. 31. *December 15, 1874.*

All applications for pension and powers of attorney hereafter received at this office will (after proper record in the record room) be sent

ATTORNEYS—Continued.

directly to the attorney's desk for examination and indorsement by the clerk in charge of said desk as to the right of attorney by whom such papers are filed to practice before this office.

In all cases where it is found that the attorney has filed the proper oath, and is in good standing before the office, the fact will be indicated by proper indorsement and the papers will be at once delivered by said clerk to the division to which they pertain.

It will be the duty of the clerk in charge to immediately notify any attorney who has failed to file the required oath, forwarding at the same time proper blank.

In all cases of doubt as to the status of the attorney in any case heretofore filed in the office, inquiry will be made at the attorneys' desk by a "reference slip," which will be filed in the case when returned.

ORDER NO. 64. September 13, 1881.

In lieu of former orders and rulings upon the subject of agents and attorneys made by Commissioners of Pensions, the following will be observed hereafter in this office:

1. The relation of "principal and agent" is that which will hereafter be recognized as the relation subsisting between claimants and those acting for them in prosecuting their claims before this bureau.

2. Consent of the attorney of record to a revocation or a transfer of his power will be required, except in such cases as are otherwise permitted by the Commissioner.

3. No general powers of attorney for the transfer of claims or instrument of substitution of one attorney by another will hereafter be recognized by this office unless executed before an officer authorized to administer oaths for general purposes, and unless the first attorney has full power of substitution, and shall state in each case so transferred the name of the soldier, his company and regiment, and the number of his claim, if possible.

Second. That where a general power of attorney has been or may hereafter be filed by one agent or attorney transferring and substituting in his stead another agent or attorney for the prosecution of claims named therein, the substitute will not be recognized by this office as the agent or attorney in any case thus transferred, unless the original agent or attorney was, at the date when such transfer was made, in good standing before this office, and had on file a power of attorney from claimant with full power of substitution. And such substituted agent or attorney must also be in such good standing.

4. Power of substitution will not be recognized by this office in a power of attorney executed after January 1, 1882.

5. No citizen of any foreign government will be recognized as an agent or attorney by this office.

See order No. 1.

ATTORNEYS—Continued.

6. Examiners will, upon the receipt of a duly executed power of attorney, inform the agent or attorney thereby empowered of the condition of the case, and at the proper time call upon him for all the necessary proof.

No power of attorney to be recognized as sufficient unless signed in the presence of two witnesses and acknowledged before a duly qualified officer, whose authority is certified under seal.

If, after June 20, 1878, an agent or attorney under a new power comes into a claim filed on or before that date, and in which the claimant had at any time before said date been represented by a duly constituted agent or attorney, such new attorney's fee of \$10 will be paid through the pension agent.

7. Every officer of the United States, or person holding any place of trust or profit, or discharging any official function under or in connection with any executive department of the Government of the United States, or under the Senate or House of Representatives of the United States, is prohibited under a heavy penalty from acting as an agent in a claim for pension, or from aiding and assisting in any manner, otherwise than in the discharge of his proper official duties, in the prosecution of such claim.

See sec. 5496, Revised Statutes United States.

No person can be recognized as an agent or attorney before this office until he shall have filed the following oath, sworn to before some officer duly authorized to administer oaths for general purposes, whose official character and signature must be certified under seal:

I, ———, do solemnly ——— that I will support, protect, and defend the Constitution and Government of the United States against all enemies, whether domestic or foreign, and that I will bear true faith, allegiance, and loyalty to the same, any ordinance, resolution, or law of any State, convention, or legislature to the contrary notwithstanding; and, further, that I do this with a full determination, pledge, and purpose, without any mental reservation or evasion whatsoever; and, further, that I will faithfully perform all the duties which may be required of me by law. So help me God.

8. An agent or attorney whose name appears upon the records of this office as in good standing will be recognized.

9. In all cases where certificates issue subsequent to the restoration of the agent or attorney prosecuting the claim, it having been completed during his suspension without the interposition of another agent or attorney, or revocation by claimant of power of attorney to said suspended agent or attorney, the fee agreement should be recognized, notwithstanding that it was filed prior to the date of his restoration.

10. In all claims for pension where the evidence necessary to complete them may be filed by the agent or attorney of record *prior* to suspension from practice before this office, and in which the certificates may

ATTORNEYS—Continued.

• not issue until subsequent thereto, such agent or attorney may be recognized after his restoration the same as though no suspension existed.

If the evidence necessary to complete a claim for pension has not been filed prior to the suspension or revocation of the power of the attorney empowered therein, and said claim is admitted during the continuance of said suspension or revocation, or subsequent to restoration of said agent or attorney upon evidence furnished during his suspension by another recognized agent or attorney, no fee can be allowed to the agent or attorney who was suspended.

In every case in which an agent or attorney, during suspension from practice before this office, has filed the evidence necessary to complete a claim, whether other papers in the claim were filed by him prior to his suspension or not, the question of his title to fee must be submitted to the Commissioner.

11. That the rule of this office directing payment of fees to suspended agents or attorneys in cases in which the claim was completed prior to the suspension of the agent, shall not be construed to authorize payment of fee in cases in which action on the pending claim was suspended on account of any irregularity or informality in the papers or evidence presented by such agent or attorney in the prosecution of the claim.

12. An applicant will be allowed during the "suspension" of an agent or attorney previously empowered to act in said applicant's claim to appoint another agent or attorney because of the inability of said former agent or attorney to act for claimant before the Department, even though said inability should prove to have been temporary.

13. Agents or attorneys practicing before this office are required to state the names of all subagents or correspondents assisting them in the prosecution of claims for pension or bounty land, and the interest said subagents or correspondents have in the prosecution of such claims or fees therein.

14. By direction of the honorable Secretary of the Interior it is hereby ordered that any attorney or agent, in good standing before the office, who knowingly employs any person as a sub-agent or correspondent, prohibited from practicing before this Department after the publication of the order of such prohibition, shall be suspended from practice under the order of the Department dated May 31, 1876.

15. In all claims filed after June 20, 1878, and in claims in which the claimant was not represented by an agent prior to that date, the legal fee is \$10, to be collected by the agent or attorney without the interference of the Pension Office or its agencies.

Rendered obsolete by act of July 4, 1884.

No fee agreements can be filed with the Commissioner of Pensions after June 20, 1878.

Rendered obsolete by act of July 4, 1884.

ATTORNEYS—Continued.

No fee will be allowed in a claim for arrears of pensions under section 4711, Revised Statutes, or in a claim for a new certificate or transfer of payment, or in a claim for reissue to correct an error of action, or made necessary by changes in the law, except where the agent or attorney shall furnish additional testimony, upon a call from this office, material to the point at issue, nor in the adjudication of reimbursement claims under last clause of section 4718, Revised Statutes.

16. A fee will not be allowed to a guardian who prosecutes the claim of his ward, nor to a firm of attorneys of which the guardian is a member.

17. The provisions of sections 4785 and 4786 of the Revised Statutes govern the amount of fee which shall be paid for the prosecution of a claim for pension filed prior to June 20, 1878, and the manner in which it shall be paid.

18. Cases pending in this bureau will not be taken up upon the verbal request of attorneys or claim agents, nor in their behalf, except upon a separate written inquiry in each case signed by the attorney or agent, and in regular course of business.

19. In cases where the contract filed by an agent or attorney does not fix the fee to be allowed, but leaves the amount of such fee in blank, or states it as not exceeding a specified sum, or such as the Commissioner may direct, the Commissioner will fix the amount, but no greater fee will be allowed by the Commissioner than the maximum mentioned in said agreement.

20. In all cases where the attorney's fee is by law payable to the attorney out of the pension, when allowed, by the agent for paying pensions, and the claimant shall have paid or shall pay the whole or any part of the legal fee of \$10 before the allowance of the claim, the attorney shall forthwith file in this office his acknowledgment of such payment, and the agent will be notified to deduct such payment therefrom.

If any such payment has been or shall be made in a case in which there is a contract between the claimant and the attorney for a greater fee than \$10, contingent upon the allowance of the pension, the acknowledgment thereof, filed by the attorney, shall also contain a specific waiver of all rights and benefits under such contract to the extent of the amount received.

21. A change of guardian in any case, during the pendency of a claim for pension, does not, *per se*, affect the right of the original attorney to recognition and to the fee agreed upon with the guardian who appointed him.

22. A claim having been adjudicated, the power of attorney filed therein will be held to have performed its office and thereupon cease to exist.

23. Since the act of June 20, 1878, "relating to claim agents and at-

ATTORNEYS—Continued.

torneys in pension cases," the Commissioner of Pensions is not required to fix the amount of the attorney's fee in claims for bounty-land warrants filed after the date of said act, nor in those filed previously, the claimants not having employed an attorney. The Commissioner will, however, entertain jurisdiction in relation to the amount of the fee in any case where exorbitant or oppressive fees shall be exacted.

24. The willful withholding of evidence by an agent or attorney for any cause in cases filed since June 20, 1878, wherein necessarily the terms of his employment are verbal, and within the power of the agent to refuse, if unsatisfactory to him, will be reported to the Secretary of the Interior for his action. And the filing by an agent or attorney of an original declaration in this office will be regarded as sufficient evidence that such agent or attorney has either received his legal fee or has made with claimant other satisfactory arrangements under the law.

In claims filed since June 20, 1878, no greater fee than \$10 can be legally received, directly or indirectly, by an agent or attorney, or any other person, for prosecuting such claim for pension, and upon satisfactory proof that any claimant has been induced to pay, or has been induced to promise, by note or otherwise, to pay to any person, directly or indirectly assisting him in the prosecution of his claim before this office, any sum or sums in the aggregate exceeding the legal fee of \$10 the persons or person so overcharging will be reported to the Secretary of the Interior for disbarment.

Last paragraph rendered obsolete by act of July 4, 1884.

"SEC. 5485. Any agent or attorney, or any other person instrumental in prosecuting any claim for pension or bounty land, who shall, directly or indirectly, contract for, demand, or receive or retain any greater compensation for his services or instrumentality in prosecuting a claim for pension or bounty land than is provided in the Title pertaining to pensions, or who shall wrongfully withhold from a pensioner or claimant the whole or any part of the pension or claim allowed and due such pensioner or claimant, or the land warrant issued to any such claimant, shall be deemed guilty of a high misdemeanor, and, upon conviction thereof, shall for every such offense be fined not exceeding five hundred dollars, or imprisonment at hard labor not exceeding two years, or both, at the discretion of the court." [Re-enacted in appropriation bill for fiscal year ending June 30, 1882, approved March 3, 1881.]

25. Agents or attorneys, to preserve their standing before this office, must exercise due diligence in the prosecution of claims intrusted to them.

The application of rules or orders relating to agents and attorneys shall not, in any case, interfere with or delay the settlement of any claim pending before this office.

ATTORNEYS—Continued.

After receiving notice from this office that a claim is ready to be taken up, failure for one year therefrom to comply with the requirements of this office by filing the evidence asked for will be held to be a practical abandonment of such claim by such agent or attorney, and the claimant will be so notified, and thereafter such attorney or agent will not again be recognized in such claim except by the request of the claimant.

The claimant shall have the privilege of exercising his right, at any stage of the claim, to revoke a power of attorney and discharge his agent upon a showing of cause deemed good and sufficient by the Commissioner.

ORDER No. 67. October 17, 1881.

No power of substitution hereafter filed, substituting one attorney by another, will be recognized by this office unless executed before an officer authorized to administer oaths for general purposes, and unless the first attorney has full power of substitution, and shall state in each case so transferred the name of the soldier, his company and regiment, and the number of his claim.

ORDER No. 83. May 31, 1882.

An attorney not having called up a claim for a year shall not be considered to have abandoned the case if it appear that within that time he has called upon the claimant to furnish necessary evidence, and that the claimant has not complied.

Before a second agent shall be recognized by reason of neglect of former one, the agent said to be in fault shall be notified of proposed change and given ten days to show cause why the change should not be permitted by the Office. This order is to be considered in connection with paragraph 25 of Order 64.

ORDER No. 97. October 23, 1883.

Paragraph 2, section 6, Order 64, is hereby modified to apply only to first power of attorney filed in a claim.

In cases where the attorney has been disqualified, the claimant may appoint a new agent by signing a power of attorney; his signature being attested by two witnesses, one of whom, when claimant signs by mark, must be an officer of the city, county, State, or of the United States. The object being to save claimant the additional expense of the formal execution before an officer authorized to administer oaths, as he is in no wise to blame for the bad conduct of his former agent, and should not be made to suffer thereby.

B.

BATHING.

See LINE OF DUTY, *par.* 11.

BLANK FORMS OF DECLARATIONS FOR ARMY AND NAVY PENSIONS.**Section 4748, Revised Statutes.**

That the Commissioner of Pensions, on application being made to him in person, or by letter, by any claimant or applicant for pension, bounty-land, or other allowance required by law to be adjusted or paid by the Pension Office, shall furnish such person, free of all expense, all such printed instructions and forms as may be necessary in establishing and obtaining said claim; and on the issuing of a certificate of pension or of a bounty-land warrant, he shall forthwith notify the claimant or applicant, and also the agent or attorney in the case, if there be one, that such certificate has been issued, or allowance made, and the date and amount thereof.

Sec. 22, 3 March, 1873; sec. 2, 14 July, 1862; see "*Regulations.*"

Blank forms of *declarations* of all kinds are furnished by the Commissioner of Pensions *to claimants* upon application therefor in person or by letter, but in no case to agents or attorneys.

Blank affidavits or forms for use in making up *evidence* in claims for pensions are *not* furnished to any one.

A.

Declaration for original invalid pension.

STATE OF ———, COUNTY OF ———, ss:

On this ——— day of ———, A. D. one thousand eight hundred and ———, personally appeared before me ———, of the ———, a court of record within and for the county and State aforesaid, ———, aged ——— years, a resident of the ——— of ———, county of ———, State of ———, who, being duly sworn according to law, declares that he is the identical ——— who was enrolled on the ——— day of ———, 18—, in company ———, of the ——— regiment of ———, commanded by ———, and was honorably discharged at ———, on the ——— day of ———, 18—; that his personal description is as follows: Age, ——— years; height, ——— feet ——— inches; complexion, ———; hair, ———; eyes, ———. That while a member of the organization aforesaid, in the service and in the line of his duty, at ———, in the State of ———, on or about the ——— day of ———, 18—, he (here state name or nature of disease, or the location of wound or injury. If disabled by disease, state fully its causes; if by wound or injury, the precise manner in which received.) That he was treated in hospitals as follows: (here state the names or numbers and the localities of all hospitals in which treated, and the dates of treatment.) That he has ——— been employed in the military or naval service otherwise than as stated above, (here state what the service was, whether prior or subsequent to that stated above, and the dates

BLANK FORMS OF DECLARATIONS FOR ARMY AND NAVY PENSIONS—Continued.

at which it began and ended.) That since leaving the service this applicant has resided in the _____ of _____, in the State of _____, and his occupation has been that of a _____. That prior to his entry into the service above named he was a man of good, sound physical health, being when enrolled a _____. That he is now _____ disabled from obtaining his subsistence by manual labor, by reason of his injuries above described, received in the service of the United States; and he therefore makes this declaration for the purpose of being placed on the invalid-pension roll of the United States.

He hereby appoints, with full power of substitution and revocation, _____, of _____, State of _____, his true and lawful attorney to prosecute his claim. That he has _____ received _____ applied for a pension. That his post-office address is _____, county of _____, State of _____.

[Claimant's signature.]

Attest:

Also personally appeared _____, residing at _____, and _____, residing at _____, persons whom I certify to be respectable and entitled to credit, and who, being by me duly sworn, say they were present and saw _____, the claimant, sign his name (or make his mark) to the foregoing declaration; that they have every reason to believe, from the appearance of said claimant and their acquaintance with him, that he is the identical person he represents himself to be; and that they have no interest in the prosecution of this claim.

[Signatures of witnesses.]

Sworn to and subscribed before me this _____ day of _____, A. D. 18—; and I hereby certify that the contents of the above declaration, &c., were fully made known [L. s.] and explained to the applicant and witnesses before swearing, including the words _____ erased, and the words _____ added; and that I have no interest, direct or indirect, in the prosecution of this claim.

[Signature.]

[Official character.]

B.

Declaration for the increase of an invalid pension.

STATE OF _____, COUNTY OF _____, ss:

On this _____ day of _____, A. D. one thousand eight hundred and _____, personally appeared before me, _____, the same being a court of record within and for the county and State aforesaid, _____, aged _____ years, a resident of _____, county of _____, State of _____, who, being duly sworn according to law, declares that he is a pensioner of the United States, duly enrolled at the _____ pension agency, at the rate of _____ dollars per month, by reason of disability incurred in the service of the United States while _____; that his present physical condition is such

¹ Company and regiment, if in the Army; and vessel, &c., if in the Navy.

BLANK FORMS OF DECLARATIONS FOR ARMY AND NAVY PENSIONS—Continued.

that he believes himself entitled to receive an increased pension; and that he herewith returns his present pension certificate.

He further declares that he is disabled in the following manner, to wit: " ——— : that he appoints ——— his true and lawful attorney to prosecute his claim: that his residence is No. ———, in ——— street, of ———, county of ———, and State of ———; and his post-office address is ———.

[Claimant's signature.]

Attest:

Also personally appeared ———, residing at ———, and ———, residing at ———, persons whom I certify to be respectable and entitled to credit, and who, being by me duly sworn, say they were present and saw ———, the claimant, sign his name (or make his mark) to the foregoing declaration; that they have every reason to believe, from the appearance of said claimant and their acquaintance with him, that he is the identical person he represents himself to be; and that they have no interest in the prosecution of this claim.

[Signature of witnesses.]

Sworn to and subscribed before me this — day of ———, A. D. 18—; and I heroby certify that the contents of the above declaration, &c., were fully made known [L. 8.] and explained to the applicant and witnesses before swearing, including the words ——— erased, and the words ——— added; and that I have no interest, direct or indirect, in the prosecution of this claim.

[Signature.]

[Official character.]

D.

Declaration for original pension for a widow.

STATE OF ———, COUNTY OF ———, ss:

On this — day of ———, A. D. one thousand eight hundred and ———, personally appeared before me, ———, the same being a court of record within and for the county and State aforesaid, ———, aged ——— years, who being sworn according to law, makes the following declaration, in order to obtain the pension provided by acts of Congress granting pensions to widows: That she is the widow of ———, who, under the name of ———, at ———, on the — day of ———, A. D. 18—, in² ———. in the war of ———, who³ ———, on the — day of ———, A. D. 18—, who bore at the time of his death the rank of ———, in⁴ ———; that she was married under the name of ——— to said ———, on the

¹Set forth extent of present disability as sequence of disability for which pension was originally allowed; how far incapacitated for manual labor, or dependent upon the personal aid or attendance of others.

²State company and regiment, if in Army; or vessel and rank, if in Navy.

³State nature of wounds and all circumstances attending them, or the disease and manner in which it was incurred, in either case showing soldier's death to have been the sequence.

⁴"In the service aforesaid," or otherwise.

BLANK FORMS OF DECLARATIONS FOR ARMY AND NAVY PENSIONS—Continued.

— day of —, A. D. 18—, by —, at —, there being no legal barrier to such marriage; that neither she nor her husband had been previously married¹ —; that she has to the present date remained his widow; that the following are the names and dates of birth of all his legitimate children yet surviving who were under sixteen years of age at the father's death, to wit:

² HIS BY HERSELF.

—, born —, 18—.
 —, born —, 18—.
 —, born —, 18—.
 —, born —, 18—.
 —, born —, 18—.
 —, born —, 18—.

HIS BY A FORMER MARRIAGE.

—, born —, 18—.
 —, born —, 18—.
 —, born —, 18—.
 —, born —, 18—.
 —, born —, 18—.
 —, born —, 18—.

That she had not abandoned the support of any of his children, but that they are still under her care or maintenance³ —; that she has not in any manner been engaged in, or aided or abetted, the rebellion in the United States; that — prior application has been filed⁴ —; that she hereby appoints — her attorney to prosecute her claim; that her residence is No. — street, —, and that her post-office address is —.

—
 [Claimant's signature.]

Attest:

—
 —

Also personally appeared —, residing at No. —, in — street, in —, and —, residing at No. —, in — street, in —, persons whom I certify to be respectable and entitled to credit, and who, being by me duly sworn, say that they were present and saw —, the claimant, sign her name (or make her mark) to the foregoing declaration; that they have every reason to believe, from the appearance of said claimant and their acquaintance with her, that she is the identical person she represents herself to be, and that they have no interest in the prosecution of this claim

—
 —
 [Signatures of witnesses.]

Sworn to and subscribed before me this — of —, A. D. 18—; and I hereby certify that the contents of the above declaration, &c., were fully made known [L. s.] and explained to the applicant and witnesses before swearing, including the words — erased, and the words — added; and that I have no interest, direct or indirect, in the prosecution of this claim.

—
 [Signature.]

[Official character.]

¹If either have been previously married, so state, and give date of death or divorce of former spouse.

²If the husband left no child or children by the applicant, or by a former wife, the fact should be stated.

³For such children as are not under her care claimant should account.

⁴If prior application has been filed, either by soldier or widow, so state, giving number assigned to it.

BLANK FORMS OF DECLARATIONS FOR ARMY AND NAVY PENSIONS—Continued.**E.***Declaration of a pensioned widow for increase of pension.*

STATE OF —, COUNTY OF —, ss:

On this — day of —, A. D. one thousand eight hundred and —; personally appeared before me, —, the same being a court of record within and for the county and State aforesaid, —, a resident of —, county of —, in the State of —, aged — years, who, being duly sworn according to law, makes the following declaration in order to obtain the pension provided by acts of Congress increasing the pensions of widows: That she is the widow of —, who was a — in — in the war of —; that on account of his death she has been granted a pension of — dollars per month, in accordance with a certificate numbered —, bearing date —, and which is herewith returned; that she has not remarried since the death of her husband above named; that the following are the names and dates of births of all his legitimate children yet surviving, and were under sixteen years of age at the father's death, to wit:

HIS BY HERSELF.

—, born —, 18—.
 —, born —, 18—.
 —, born —, 18—.
 —, born —, 18—.
 —, born —, 18—.
 —, born —, 18—.

HIS BY A FORMER MARRIAGE.

—, born —, 18—.
 —, born —, 18—.
 —, born —, 18—.
 —, born —, 18—.
 —, born —, 18—.
 —, born —, 18—.

That she has not abandoned the support of any one of his children, but that they are still under her care or maintenance² —; that she hereby appoints — her attorney to prosecute her claim; that her residence is at No. —, in — street, in the — of —, county of —, State of —; and that her post-office address is —.

Attest:

[Claimant's signature.]

Also personally appeared —, residing at No. —, in — street, in —, and —, residing at No. —, in — street, in —, persons whom I certify to be respectable and entitled to credit, and who, being by me duly sworn, say that they were present and saw —, the claimant, sign her name (or make her mark) to the foregoing declaration; that they have every reason to believe, from the appearance of said claimant and their acquaintance with her, that she is the identical person she represents herself to be; and that they have no interest in the prosecution of this claim.

[Signatures of witnesses]

Sworn to and subscribed before me this — day of —, A. D. 18—; and I hereby certify that the contents of the above declaration, &c., were fully made known [L. s.] and explained to the applicant and witnesses before swearing, including the words — erased, and the words — added; and that I have no interest, direct or indirect, in the prosecution of this claim.

[Signature.]

[Official character.]

¹ State company and regiment, if in Army; or vessel and rank, if in Navy.² For such children as are not under her care claimant should account.

BLANK FORMS OF DECLARATIONS FOR ARMY AND NAVY PENSIONS—Continued.

F.

Declaration for pension of children under sixteen years of age.

STATE OF ———, COUNTY OF ———, ss :

On this ——— day of ———, A. D. one thousand eight hundred and ———, personally appeared before me, ———, the same being a court of record within and for the county and State aforesaid, ———, a resident of ———, county of ———, in the State of ———, aged ——— years, who, being duly sworn according to law, makes the following declaration, in order to obtain the pension provided by acts of Congress for children under sixteen years of age: That ——— is the only legal guardian of ———, legitimate children of ———, who¹ ——— under the name of ———, at ———, on the ——— day of ———, A. D. 18—,² ———, in the war of ———, who died³ ——— at ———, on the ——— day of ———, A. D. 18—, and who bore at the time of his death the rank of ———, in⁴ ———; that he left ——— widow surviving⁵ ———; that the above named are the only surviving legitimate children of said ——— who were under sixteen years of age at the time of his death, of whom⁶ ———; that said children were the issue of said soldier as follows, the dates of their birth being as hereinafter stated :

: ———, of soldier by ———, born, ——— 18—.
 ———, of soldier by ———, born ———, 18—.
 ———, of soldier by ———, born ———, 18—.
 ———, of soldier by ———, born ———, 18—.
 ———, of soldier by ———, born ———, 18—.
 ———, of soldier by ———, born ———, 18—.
 ———, of soldier by ———, born ———, 18—.
 ———, of soldier by ———, born ———, 18—.
 ———, of soldier by ———, born ———, 18—.

That the father was married under the name of ———, to⁸ ———, there being no legal barrier to such marriage; that the said children have not aided or abetted the rebellion; and that ——— prior application has been filed⁹ ———; that declarant hereby appoints ——— h— attorney to prosecute the above claim; that h— residence is at No. ——— street, in the ——— of ———, county of ———, State of ———; and that h— post-office address is ———.

[Claimant's signature.]

Attest:

Also personally appeared ———, residing at No. ———, in ——— street, in ——— and ———, residing at No. ———, in ——— street, in ———, persons whom I certify to be respectable and entitled to credit, and who, being by me duly sworn, say that they were present and saw ———, the claimant, sign ——— name (or make ———

¹ "Was enlisted," "drafted," or otherwise, as the case may be.

² State company and regiment, if in Army; or vessel, &c., if in Navy.

³ State nature of wounds and all circumstances attending them, or the disease and manner in which it was incurred, in either case showing soldier's death to have been the sequence.

⁴ "In the service aforesaid," or otherwise.

⁵ If widow survived, so state, giving her name, and the date of her death or other facts divesting her title.

⁶ If any have died, state date of death.

⁷ State names of children and of their mothers, and dates of birth.

⁸ If more than once married, so state, giving names and dates and parties officiating.

⁹ If either soldier, widow, or guardian of children have previously applied, so state, giving date and number of application.

BLANK FORMS OF DECLARATIONS FOR ARMY AND NAVY PENSIONS—Continued.

mark) to the foregoing declaration; that they have every reason to believe, from the appearance of said claimant and their acquaintance with —, that — is the identical person — represents — to be; and that they have no interest in the prosecution of this claim.

(Signatures of witnesses.)

Sworn to and subscribed before me this — day of —, A. D. 18—; and I hereby certify that the contents of the above declaration, &c., were fully made known and explained to the applicant and witnesses before swearing, including the [L. S.] words — erased, and the words — added; and that I have no interest direct or indirect, in the prosecution of this claim.

(Signature.)

(Official character.)

G.

Declaration of guardian for increase of pension to pensioned children.

STATE OF —, COUNTY OF —, ss:

On this — day of —, A. D., one thousand eight hundred and —, personally appeared before me, —, the same being a court of record within and for the State and county aforesaid, —, a resident of —, county of —, in the State of —, aged — years, who, being duly sworn according to law, makes the following declaration in order to obtain the benefit of the provisions of acts of Congress increasing the pension of orphans: That — is the only legal guardian of —, legitimate children of —, who was ¹—; that on account of his death they have been granted pension in accordance with the certificate numbered —, bearing date —, and which is herewith returned; and that the names and date of birth of all his legitimate children yet surviving, who were under sixteen years at the date of the father's death, are as follows:

² —, of soldier by —, born —, 18—.
—, of soldier by —, born —, 18—.
—, of soldier by —, born —, 18—.
—, of soldier by —, born —, 18—.
—, of soldier by —, born —, 18—.
—, of soldier by —, born —, 18—.
—, of soldier by —, born —, 18—.
—, of soldier by —, born —, 18—.

That — hereby appoints — h— attorney to prosecute the above claim, that h— residence is at No. —, in — street, in the — of —, county of —, State of —; and that h— post-office address is —.

(Claimant's signature.)

Attest:

¹ State rank, company, and regiment, if in Army; or rank, vessel, &c., if in Navy.

² State names of children and their mothers, and dates of birth.

BLANK FORMS OF DECLARATIONS FOR ARMY AND NAVY PENSIONS—Continued.

Also personally appeared _____, residing at No. _____, in _____ street, in _____, and _____, residing at No. _____, in _____ street, in _____, persons whom I certify to be respectable and entitled to credit, and who, being by me duly sworn, say that they were present and saw _____, the claimant, sign his name (or make his mark) to the foregoing declaration; that they have every reason to believe, from the appearance of said claimant and their acquaintance with _____, that _____ is the identical person _____ represents himself to be; and that they have no interest in the prosecution of this claim.

[Signatures of witnesses.]

Sworn to and subscribed before me this _____ day of _____, A. D. 18—; and I hereby certify that the contents of the above declaration, &c., were fully made known [L. S.] and explained to the applicant and witnesses before swearing, including the words _____ erased, and the words _____ added; and that I have no interest, direct or indirect, in the prosecution of this claim.

[Signature.]

[Official character.]

H.

Declaration for an original pension of a mother,

STATE OF _____, COUNTY OF _____, ss:

On this _____ day of _____, A. D. one thousand eight hundred and _____, personally appeared before me, _____, the same being a court of record within and for the county and State aforesaid, _____, a resident of _____, county of _____, in the State of _____, aged _____ years, who, being duly sworn according to law, makes the following declaration, in order to obtain the pension provided by acts of Congress granting pensions to dependent mothers: That she is the¹ _____ of _____, and mother of _____, who² _____ under the name of _____, at _____, on the _____ day of _____, A. D. 18—, in³ _____, in the war of _____, who⁴ _____ on the _____ day of _____, A. D. 18—; that said son _____ left neither widow nor child under sixteen years of age surviving; that she was _____ dependent upon said son for support; that her husband, the aforesaid _____, aged _____ years, _____; that there were surviving at date of said son's death, his brothers and sisters, who were under sixteen years of age, as follows:

_____, born _____, 18—.
_____, born _____, 18—.
_____, born _____, 18—.
_____, born _____, 18—.

That she has not heretofore received _____ applied for a pension⁷ _____; that she has not aided or abetted the rebellion; that she hereby appoints _____ her attorney

¹ "Wife" or "widow."

² "Enlisted," "was drafted," &c.

³ State company and regiment, if in the Army; and vessel, &c., if in the Navy.

⁴ State nature of wounds and all circumstances attending them, or the disease and manner in which it was incurred, in either case showing the soldier's death to have been the sequence: also service and rank at time of death.

⁵ "Wholly" or "in part."

⁶ If husband is dead so state, giving date of death; also whether applicant has remarried. If still living, his inability to support applicant should be accounted for.

⁷ If either she or the soldier has previously applied, so state, giving number of claim.

BLANK FORMS OF DECLARATIONS FOR ARMY AND NAVY PENSIONS—Continued.

to prosecute the above claim; that her residence is at No. ———, in ——— street, in the ——— of ———, county of ———, State of ———; and that her post-office address is ———.

[Claimant's signature.]

Attest:

Also personally appeared ———, residing at No. ——— in ——— street, in ———, and ———, residing at No. ——— in ——— street, in ———, persons whom I certify to be respectable and entitled to credit, and who, being by me duly sworn, say that they were present and saw ———, the claimant, sign her name (or make her mark) to the foregoing declaration; that they have every reason to believe, from the appearance of said claimant and their acquaintance with her, that she is the identical person she represents herself to be; and that they have no interest in the prosecution of this claim.

[Signatures of witnesses.]

Sworn to and subscribed before me this ——— day of ———, A. D. 18—; and I hereby certify that the contents of the above declaration, &c., were fully made known [I. s.] and explained to the applicant and witnesses before swearing, including the words ——— erased, and the words ——— added; and that I have no interest, direct or indirect, in the prosecution of this claim.

[Signature.]

[Official character.]

I.*Declaration for an original pension of a father.*

STATE OF ———, COUNTY OF ———, ss:

On this ——— day of ———, A. D. one thousand eight hundred and ———, personally appeared before me, ———, the same being a court of record within and for the county and State aforesaid, ———, aged ——— years, who, being duly sworn according to law, makes the following declaration, in order to obtain the pension provided by acts of Congress granting pensions to dependent fathers: That he is the father of ———, who ——— under the name of ———, at ———, on the ——— day of ———, A. D. 18—, in¹ ———, in the war of ———, who² ———, on the ——— day of ———, A. D. 18—, who bore at the time of his death the rank of ——— in³ ———; that his son, ———, left neither widow nor child under sixteen years of age surviving; that the declarant was married to the mother of said son at ———, on the ——— day of ———, A. D. ———, by ———; that he was⁴ ——— dependent upon said son for support; that the mother of said son died at ———, on the ——— day of

¹ State company and regiment, if in the Army; and vessel, &c., if in the Navy.

² State nature of wounds and all circumstances attending them, or the disease and manner in which it was incurred, in either case showing the soldier's death to have been the sequence.

³ State company and regiment, if in the Army; and vessel, &c., if in the Navy.

⁴ "Wholly" or "in part."

BLANK FORMS OF DECLARATIONS FOR ARMY AND NAVY PENSIONS—Continued.

_____, A. D. ____; that there were surviving, at the date of said son's death, his brothers and sisters, who were under sixteen years of age, as follows:

_____, born, _____, 18—.

_____, born, _____, 18—.

_____, born, _____, 18—.

_____, born, _____, 18—.

That he has not heretofore received _____ applied for a pension¹ _____; that he has not aided or abetted the rebellion; that he hereby appoints _____ his attorney to prosecute the above claim; that his residence is at No. _____, in _____ street, in the _____ of _____, county of _____, State of _____, and that his post-office address is _____.

[Claimant's signature.]

Attest:

Also personally appeared _____, residing at No. _____, in _____ street, in _____, and _____, residing at No. _____, in _____ street, in _____, persons whom I certify to be respectable and entitled to credit, and who, being by me duly sworn, say that they were present and saw _____, the claimant sign his name (or make his mark) to the foregoing declaration; that they have every reason to believe, from the appearance of said claimant and their acquaintance with him, that he is the identical person he represents himself to be; and that they have no interest in the prosecution of this claim.

[Signatures of witnesses.]

Sworn to and subscribed before me this _____ day of _____, A. D. 18—; and I hereby certify that the contents of the above declaration, &c., were fully made known [I. S.] and explained to the applicant and witnesses before swearing, including the words _____ erased, and the words _____ added; and that I have no interest, direct or indirect, in the prosecution of this claim.

[Signature.]

[Official character.]

J.

Declaration for pension of dependent brothers and sisters.

STATE OF _____, COUNTY OF _____, ss:

On this _____ day of _____, A. D. one thousand eight hundred and _____, personally appeared before me, _____, the same being a court of record within and for the county and State aforesaid, _____, a resident of _____, county of _____, in the State of _____, aged _____ years, who, being duly sworn according to law, makes the following declaration, in order to obtain the pension provided by acts of Congress for dependent brothers and sisters: That _____ is the only legal guardian of _____, brothers and sisters of _____, who _____ under the name of _____, at _____,

¹ If either he, the mother, or the soldier has previously applied, so state, giving number of claim.

"Was enlisted," "drafted," or otherwise, as the case may be.

BLANK FORMS OF DECLARATIONS FOR ARMY AND NAVY PENSIONS—Continued.

on the — day of —, A. D. 18—, ¹ —, in the war of —, who died ² —, at —, on the — day of —, A. D. 18—, and who bore at the time of his death the rank of — in ³ —; that he left neither widow, minor child, nor ⁴ —; that the above named are the only legitimate brothers and sisters, including those of the half-blood, of the said deceased —, surviving, who were under sixteen years of age at the time of his death, and were dependent upon him, of whom ⁵ —; that said brothers and sisters were the issue of the parents of said soldier, as follows, the dates of their birth being as herein stated:

⁶ —, child of — and —, born —, 18—. —, child of — and —, born —, 18—. —, child of — and —, born —, 18—. —, child of — and —, born —, 18—. —, child of — and —, born —, 18—.

That the parents were married under the names of ⁷ —, there being no legal barrier to the marriage; that none of said brothers or sisters have aided or abetted the rebellion; that — prior application has been filed ⁸ —; that — hereby appoints — h— attorney to prosecute the above claim; that h— residence is at No. —, in — street, in the — of —, county of —, State of —, and that h— post-office address is —.

[Claimant's signature.]

Attest:

Also personally appeared —, residing at No. —, in — street, in —, and —, residing at No. —, in — street, in —, persons whom I certify to be respectable and entitled to credit, and who, being by me duly sworn, say that they were present and saw — the claimant, sign h— name (or make — mark) to the foregoing declaration; that they have every reason to believe, from the appearance of said claimant and their acquaintance with —, that — is the identical person — represents —self to be; and that they have no interest in the prosecution of this claim.

[Signatures of witnesses.]

Sworn to and subscribed before me this — day of —, A. D. 18—; and I hereby certify that the contents of the above declaration, &c., were fully made known [L. S.] and explained to the applicant and witnesses before swearing, including the words — erased, and the words — added; and that I have no interest, direct or indirect, in the prosecution of this claim.

[Signature.]

Official character.]

¹ State company and regiment, if in Army; or vessel, &c., if in Navy.

² State nature of wounds and all circumstances attending them, or the disease and manner in which it was incurred, in either case showing soldier's death to have been the sequence.

³ "In the service aforesaid," or otherwise, as may have been the case.

⁴ If mother or father survived the soldier and subsequently died, so state, giving date of death; otherwise add, "mother nor father surviving."

⁵ If any have died, state date of death.

⁶ State names of children and of both parents; also date of birth.

⁷ Give names of parents and places and dates of marriages.

⁸ If either soldier or his father or mother have previously applied, so state, giving date and number of application.

BLANK FORMS OF DECLARATIONS FOR ARMY AND NAVY PENSIONS—Continued.

See BOUNTY LAND, par. 51, and SERVICE PENSIONS, WAR OF 1812, par. 11.

BOUNTY LAND.**1. ACTS IN NATURE OF CONTRACTS AND GRATUITIES.**

(For laws see paragraph 115 this title.)

DECISION OF THE SECRETARY OF THE INTERIOR.

I. The acts of January 11, 1812, and February 11, 1847, are in the nature of contracts.

The acts of December 24, 1811, February 6, 1812, January 20, 1813, and December 10, 1814, being for the same purpose and containing the same conditions as the act of January 11, 1812, were doubtless intended to be included in this decision.

The acts of December 24, 1811, January 11, 1812, January 20, 1813, and December 10, 1814, provided for completing and enlarging the military establishment (the Regular Army) of the United States for service in the war of 1812, and the act of February 6, 1812, authorized the calling into service of volunteer military organizations for said war. The grant of a bounty in land of 160 acres, as well as a bounty in money, was offered as an inducement to secure enlistments, and the Government was therefore bound by the terms of its contract to issue a land-warrant, of the denomination mentioned, to all the enlisted men, "and their heirs and representatives," who entered the service during the war of 1812, under the provisions of the acts named. All of these acts, however, contained the following provision "the said * * * one hundred and sixty acres of land to be designated, surveyed and laid off, at the public expense, in such manner and upon such terms and conditions as may be provided by law."

The act of May 6, 1812, providing for designating, surveying and granting the military bounty-lands, declared "That the Secretary for the Department of War, for the time being, shall, from time to time, issue warrants for the military land bounties to the persons entitled thereto by the two last-mentioned acts (acts of December 24, 1811, and January 11, 1812), or either of them: *Provided always*, That such warrants shall be issued only in the name of the persons thus entitled, and be, by them or their representatives, applied for within five years after the same persons shall have become entitled thereto;" * * *

The act of April 16, 1816, "An act further extending the time for issuing and locating military land warrants," provides: "That the Secretary of War be authorized to issue military land warrants to such persons as have, or shall have, before the 1st day of March, 1818, produced to him satisfactory evidence of the validity of their claims; which warrants, with those heretofore issued, and not yet satisfied, shall and may be located, in the name of the holders or proprietors thereof, prior to the 1st day of October, 1818." * * *

The date for the completion of bounty-land claims, under the acts mentioned, was extended, from time to time, to the 26th day of June, 1858, when, it is held, the provisions of said acts expired by limitation. See decision of Secretary of the Interior, (4) paragraph 76 of this title. The effect of this limitation is to cut off the "heirs and representatives," or rather to confine them to the heirs specified in later acts (now sections 2418, 2419, and 2428, Revised Statutes).

The act of February 11, 1847, provided for the raising, for a limited time, an additional military force for the Mexican war, and offered as an inducement to encourage enlistments a grant of 160 acres of bounty in land to the enlisted man, or, in the event of his death, to "his family or relatives, according to the following rules: First, to

BOUNTY LAND—Continued.

the widow and to his children; second, his father; third, his mother;" and by the amendment of May 27, 1848, "fourth, to the brother and sister, or in equal proportions to the brothers and sisters of the deceased, as the case may be." As the limitations referred to in the laws relating to the war of 1812 do not apply to enlistments under said acts of 1847, it is evident that it is still in force as a contract with full binding effect according to its terms. The provisions, however, of said act are substantially covered by section 2418, Revised Statutes, as construed by decisions of the Secretary of the Interior. The present effect of this ruling, that the acts above referred to are in the nature of contracts, is to give a second warrant in a few cases where, for some service other than in the Mexican War, or in the regular army in the war of 1812, a warrant for 160 acres of land has already been granted to the same person. (See paragraph 135 this title.)

II. The act of September 28, 1850, in its grants of bounty lands, offers gratuities.

And as the acts of March 22, 1852, and March 3, 1855, are of the same character and were passed under similar circumstances, their grants must be considered in the nature of gratuities. These acts were passed after the services which gave the title had been rendered, and, consequently, contained no part of the conditions of enlistments. They were enacted for the purpose of providing for certain classes and certain services not provided for in previous acts, and in the case of the act of 1855, to equalize, in quantity of land, the grants under all prior acts.

The act of 1850 is contained in section 2418, Revised Statutes, the act of 1852 in section 2420, and the act of 1855 in section 2425, *et seq.*

Stuart, A. H. H., Secretary, Oct. 29, 1850. M. and M., p. 563. Schurz, C., Secretary. July 25, 1879. B. L. Wt., No. 3, 103-160-1847. Anderson, James W. O. W. and N., Vol 2, p. 178.

2. ACTS, SPECIAL.

See PARAGRAPH 108 THIS TITLE AND PARAGRAPH 49 THIS TITLE.

3. ADMINISTRATORS.**DECISIONS OF THE SECRETARY OF THE INTERIOR.**

(1) In suspicious claims appointment of administrator should be investigated.

Delano, C., Secretary. Nov. 6, 1874. B. L. Wt., No. 29, 818-80-1850. East, James. Vol. 4, p. 349

(2) Administrators must file certificate of court as to their appointment.

Instructions: Delano, C., Secretary. May 3, 1875.

4. APACHE INDIAN WAR.

See PARAGRAPH 60 THIS TITLE.

5. APPEALS.**DECISION OF THE SECRETARY OF THE INTERIOR.**

(1) A question having been settled by a former Secretary of the Interior, and no new evidence being discovered and no new facts appearing in the case, cannot properly be reopened and must be regarded as *res adjudicata*.

Schurz, C., Secretary. June 19, 1879. Special act, O. W. and N. Vol. 2, p. 130.

See APPEALS.

BOUNTY LAND—Continued.**6. APPLICATIONS.**

See PARAGRAPH 33 THIS TITLE.

7. ARMY AND NAVY ROLLS AND RECORDS, WHERE FOUND.

See ARMY AND NAVY ROLLS AND RECORDS, *where found*.

8. AROOSTOOK OR NORTHEASTERN DISTURBANCE.

See PARAGRAPH 60 THIS TITLE.

9. ASSIGNMENTS.**Section 2414, Revised Statutes.**

All warrants for military bounty-lands which have been or may hereafter be issued under any law of the United States, and all valid locations of the same which have been or may hereafter be made, are declared to be assignable by deed or instrument of writing made and executed according to such form and pursuant to such regulations as may be prescribed by the Commissioner of the General Land Office, so as to vest the assignee with all the rights of the original owner of the warrant or location.

22 March, 1832, c. 19, s. 1, v. 10, p. 3; 3 June, 1858, c. 84, s. 2, v. 11, p. 309.

See PARAGRAPHS 126 AND 129 THIS TITLE.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

(1) Assignment of warrant by warrantee must be made in due form, in order that any one claiming under it may be recognized on appeal. The Department declines to disturb the action of the Pension Office in canceling assignment of warrantee, in consequence of it being surrounded with presumptions of fraud, there being no proof that injustice is done to any party or parties by said action, or that any one would have title to said warrant if restored.

Schurz, C., Secretary. April 7, 1880. B. L. Wt. No. 61,617-160-1855. Byrne, Martin. Vol. 7, p. 277.

(2) Whether the assignment of a bounty-land warrant, purporting to have been made by a person in whose name such warrant was issued, was actually made by him, is a question which pertains to the business of the General Land Office.

Teller, H. M., Secretary. Nov. 15, 1883. B. L. Wt. No. 53,743-160-1847. Tippet, William J. et al., brother and sisters of Tippet, Samuel N. Vol. 11, p. 52.

10. ATTORNEYS.

See ATTORNEYS.

11. ATTORNEYS, FEE OF.

See PARAGRAPH 49 THIS TITLE, *also* FEES OF AGENTS AND ATTORNEYS.

12. ATTORNEYS, FEE AGREEMENTS OF.

See PARAGRAPH 49 THIS TITLE, *also* FEES OF AGENTS AND ATTORNEYS.

BOUNTY LAND—Continued.**13. BEARER OF DISPATCHES.**

See PARAGRAPH 24 THIS TITLE.

14. BLACK HAWK WAR.

See PARAGRAPH 60 THIS TITLE.

15. BROTHERS AND SISTERS.

(For law see paragraph 115 this title.)

DECISIONS OF ATTORNEY-GENERAL AND SECRETARY OF THE INTERIOR.

(1) Brothers and sisters of the half blood are equally entitled with those of the whole blood.

[NOTE.—Under Section 2418, Revised Statutes.]

Toucey, Isaac, Attorney-General. Sept. 7, 1848. Decisions of Attorneys-General. Vol. 5, p.

26. Thomas J. Luxen, et al., brother and sister of Joseph Luxen. B. L. Wt. No. 29,362-160—1847. M. and M., p. 483.

McKenna, T. M. T., Secretary. Aug. 22, 1850. B. L. Wt. No. 71,007-160—1847. Andrews, F., M. and M., p. 559.

(2) The illegitimate sisters of an illegitimate deceased brother (leaving neither wife, children, or other relatives) are unquestionably entitled to his bounty-land.

[NOTE.—Under Section 2418, Revised Statutes.]

McClelland, R., Secretary. Dec. 15, 1853. O. W. and N. Vol. 4, p. 67. (No claim found.)

(3) The provisions of the act of February 11, 1847, allowing bounty-land to the fathers, mothers, brothers, and sisters of enlisted men in the Regular Army, are not repealed by the provisions of section 2418 and 5596, Revised Statutes, but their rights under the act of February 11, 1847, and May 27, 1848, are accrued rights, and are reserved by section 5597, Revised Statutes.

Schurz, C., Secretary. December 17, 1879. B. L. Wt. No. 7,036-160—1847. Bailes, Thompson. Vol. 7, p. 128.

(4) A soldier served three months as a private in the war with Mexico, and received during his life-time a warrant for 40 acres, under the act of February 11, 1847, [Sec. 2418, R. S.] The soldier died in 1852, having received all to which his services entitled him under the laws in force prior to his death, and any law (act of March 3, 1885, now section 2425 *et seq.*, R. S.) passed since his death increasing the amount of land to which he would have been entitled if living, does not extend its benefits to brothers and sisters.

Schurz, C., Secretary. Dec. 17, 1879. B. L. No. 334,385. Foster, John G., sisters of. Vol. 7, p. 121.

(5) Brothers and sisters of soldiers are not entitled to bounty-land, under the act of March 3, 1855, [Sec. 2425 *et seq.*, R. S.] and not entitled under section 2418, Revised Statutes, unless the soldiers served for a period of thirty days at least.

Kirkwood, S. J., Secretary. July 6, 1881. B. L. No. 334,827. Mendenhall, Zadoc. Vol. 8, p. 336.

BOUNTY LAND—Continued.

(6) The only law granting bounty-land to those who served in the Navy, or their heirs, is contained in sections 1 and 2 of the act of March 3, 1855, now sections 2425 to 2428, Revised Statutes, inclusive, which does not extend its benefits to other heirs than the widow and children.

Teller, H. M., Secretary. May 3, 1882. B. L. No. 335,473. Walling, M. C. Vol. 9. p. 177.

RULING OF THE COMMISSIONER OF PENSIONS.

RULING No.—. April 13, 1885.

Sisters of soldiers are not entitled to bounty-land under section 2420, Revised Statutes.

B. L. No. 335,490. Walker, Lydia, sister of Hadin, Daniel B. O. W. and N. Vol. 3, p. 357.

See PARAGRAPH 51 THIS TITLE; *See* BROTHERS AND SISTERS.

16. BOUNTY IN MONEY.

See PARAGRAPH 51 THIS TITLE.

17. BURR'S INSURRECTION.

See PARAGRAPH 60 THIS TITLE.

18. CANCELLATION OF WARRANTS.

See PARAGRAPH 126 THIS TITLE.

19. CAPTIVITY.

See PARAGRAPH 106 THIS TITLE.

20. CAVEATS.

See PARAGRAPH 126 THIS TITLE.

21. CERTIFICATE OF DISCHARGE.

See PARAGRAPH 36 THIS TITLE.

22. CHEROKEE REMOVAL

See PARAGRAPH 60 THIS TITLE.

23. CHILDREN, MINOR.

See PARAGRAPH 76 THIS TITLE.

24. CIVILIAN EMPLOYÉS.

Section 2426, Revised Statutes.

The classes of persons embraced as beneficiaries under the preceding section are as follows, namely:

* * * * *

Wagon-masters and teamsters who have been employed under the

BOUNTY LAND—Continued.

direction of competent authority, in time of war, in the transportation of military stores and supplies.

3 March, 1855, sec. 1, 2d proviso.

* * * * *

Chaplains who served with the Army.

3 March, 1855, sec. 10.

* * * * *

(For further laws see paragraph 115 this title.)

DECISIONS OF THE SECRETARY OF THE INTERIOR.

(1) *Bearer of dispatches*.—With the exceptions in the act itself (March 3, 1855, section 2425 *et seq.*, R. S.), specifically designated, the service contemplated by the act is strictly military service. Service rendered as "bearer of dispatches" is not military.

McClelland, R., Secretary. May 29, 1856. B. L. No. 127,839. Reid, James. O. W. and N. Vol. 4, pp. 78, 79.

(2) *Contract surgeon*.—A surgeon serving under a contract is not an Army officer by appointment nor a volunteer, and is not entitled to bounty-land.

Thompson, J., Secretary. June 5, 1857. B. L. No. 251,385. Wislezmus, Adolphus. O. W. and N. Vol. 4, pp. 83, 84. Schurz, C., Secretary. March 15, 1877. B. L. No. 227,083. Graves, R. L. Vol. 2, p. 57.

(3) *Mechanics and laborers* employed in the Army are not entitled to bounty-land.

Stuart, A. H. H., Secretary. January 7, 1851. O. W. and N. Vol. 4, p. 42. (No claim)

(4) *A packer* is included in the fourth class mentioned in section 2426, Revised Statutes, viz, wagon-masters and teamsters.

[See ruling this paragraph.]

Teller, H. M., Secretary. Sept. 18, 1883. B. L. No. 331,420. Winkle, John A. O. W. and N. Vol. 3, p. 206.

(5) *Quartermaster employés*.—A clerk or deck hand in Quartermaster's Department is regarded as a civilian employed in that Department, and is not entitled to bounty-land.

McClelland, R., Secretary. Aug. 13, 1853. B. L. Rejected No. 96,226—1847. Wakeman, Alonzo C. O. W. and N. Vol. 1, p. 91.

Schurz, C., Secretary. April 28, 1879. B. L. No. 332,279. Domingo, Ascuenago. O. W. and N. Vol. 2, p. 101.

(6) *Spies*.—Under act of March 3, 1885 [Section 2425 *et seq.*, R. S.], a spy upon the rolls as an officer or enlisted man is not entitled.

Thompson, J., Secretary. Jan. 4, 1880. B. L. Rej. No. 288,163. Hubbell, Aaron. O. W. and N. Vol. 4, p. 97.

(7) *Teamsters* must have served at the seat of war to be entitled.

Thompson, J., Secretary. April 8, 1858. B. L. No. 75,255. Baeye, Thomas J. O. W. and N. Vol. 4, p. 86.

Muldrow, H. L., Acting Secretary. May 11, 1885. B. L. No. 335,800. Grob, Jacob. See No 335,556. Catharine Knote. O. W. and N. Vol. 5, p. 28.

BOUNTY LAND—Continued.

(8) *A teamster* who did not reach the seat of the Mexican war, before discharge, is not entitled.

Thompson, J., Secretary. April 16, 1859. B. L. No. 224,984. Inglis, James. O. W. and N. Vol. 4, pp. 91, 92.

(9) *Traders*.—During the Mexican war, the First Regiment of Missouri Volunteers [Colonel Doniphan] marched from Santa Fé to Chihuahua, Mexico. On said march the regiment was accompanied by a party of traders numbering, with their employés, about 200 men, who, for the better protection of themselves and their property, were organized into two companies, which were dismissed on arriving at Chihuahua their place of destination, *Held*: that service was of a private rather than public character, and that the persons rendering it were not in the service of the United States and not entitled to bounty-land.

Teller, H. M., Secretary. June 17, 1880. B. L. No. 333,367. Davis, Jasper N. Vol. 9, p. 264.

Stuart, A. H. H., Secretary. Nov. 7, 1850. (No claim cited.) O. W. and N. Vol. 4, p. 38.

Schurz, C., Secretary. May 19, 1880. B. L. No. 334,746. Turner, John C. O. W. and N. Vol. 2, p. 308.

(10) *Wagon-masters*.—Under act March 3, 1855 [section 2425 *et. seq.*, R. S.], wagon-masters and teamsters employed in the removal of the Cherokee Indians, are not entitled to bounty-land.

Thompson J., Secretary. Oct. 5, 1857. B. L. No. 111,612. Denton, James R. O. W. and N. Vol. 4, pp. 85, 86.

RULING OF THE COMMISSIONER OF PENSIONS.

RULING No. 56. *January 22, 1872.*

Privateersmen are not regarded as enlisted men in the service of the United States.

RULING No. —. *April 20, 1885.*

A packer is not entitled to bounty-land unless the service was rendered in time of and at seat of war.

B. L. No. 331,420. Winkle, John A. O. W. and N. Vol. 3, p. 349.

See (4) **THIS PARAGRAPH. ALSO CIVILIANS IN SERVICE OF QUASI MILITARY CHARACTER.**

25. COMMISSIONED OFFICERS.

(*For laws see paragraph 115 this title.*)

DECISIONS OF ATTORNEY-GENERAL AND SECRETARY OF THE INTERIOR.

(1) Under the act of April 16, 1816, a person who enlisted for five years or for during the war of 1812, and served as such until commissioned, but who resigned his commission before the close of the war, is entitled to bounty-land.

Wirt, William, Attorney-General. July 20., 1810. Decisions of Attorneys-General, Vol. 1, p. 273; M. and M., pp. 342, 343.

[*NOTE*.—Under all acts for war of 1812, prior to 1850, no provision was made for commissioned officers. All these officers, however, came in under provisions of the acts of 1850 and 1855, now sections 2418 and 2425 *et seq.*, R. S.]

BOUNTY LAND—Continued.

(2) Title to bounty-land is not impaired by the promotion to be a commissioned officer, before the expiration of his enlistment, of a private who subsequently continued in the service to the end of the war.

Ewing, T., Secretary. March 28, 1850. B. L. Wt. No. 68,865-160—1847. Krohne, Charles. M. and M., p. 50.

[NOTE.—This decision applies to act of 1847, which made no provision for commissioned officers, but, as re-enacted in section 2418, Revised Statutes, such officers are now provided for.]

26. CONTRACTS, ACTS IN NATURE OF.

See PARAGRAPH 1 THIS TITLE.

27. CONTRACT SURGEON.

See PARAGRAPH 24 THIS TITLE.

28. COPIES OF PAPERS.

See PARAGRAPH 51 THIS TITLE.

29. COURT OF CLAIMS.

Has no jurisdiction over bounty-land claims pending before the Pension Office.

See NOTE TO (10) PARAGRAPH 106 THIS TITLE.

30. CREEK DISTURBANCES.

See PARAGRAPH 60 THIS TITLE.

31. DEATH, PRESUMPTION OF.**DECISION OF THE SECRETARY OF THE INTERIOR.**

(1) The presumption of death, arising from absence of a party in parts unknown for seven years, fixed by common law, should apply in bounty-land claims.

Instructions: Ewing, T., Secretary. May 7, 1850 O. W. and N. Vol. 4, p. 28.

32. DECEASED WARRANTEES OR CLAIMANTS.

See PARAGRAPH 137 THIS TITLE.

33. DECLARATIONS.

(For laws see general title Declaration.)

DECISIONS OF THE SECRETARY OF THE INTERIOR.

(1) Declaration for a lunatic should be made by a legally appointed committee, who will have control of the warrant, for the lunatic's benefit, if issued.

Stuart, A. H. H., Secretary. Feb. 10, 1851. B. L. No. 109,992. Pogue, Samuel. O. W. and N. Vol. 4, p. 45.

BOUNTY LAND—Continued.

(2) Declarations in bounty-land claims must be made before an officer of a court of record.

Delano, C., Secretary. Jan. 10, 1872. B. L. (No claim.) Robledo, Cension- Vol. 1, p. 136.

RULING OF COMMISSIONER OF PENSIONS.

RULING No. 7. *January 10, 1870.*

Declarations in claims for bounty-lands must be made before an officer of a court of record.

ORDER OF COMMISSIONER OF PENSIONS.

ORDER No. 11. *November 18, 1871.*

No declaration or affidavit alleging or claiming title to pension, executed subsequent to July 4, 1864, otherwise than before a court of record, or before some officer thereof having custody of its seal, shall be regarded as an application for pension under the provisions of section 6, act of July 27, 1868. But if executed prior (though not before a court of record) and filed subsequent to July 4, 1864, it may be so accepted.

[NOTE.—The law providing for the form of execution of declarations does not, in letter, include bounty-land applications; but it has been construed by the Department and this Office to cover that class of cases.]

See PARAGRAPH 51 THIS TITLE.

34. DELIVERY OF WARRANTS.

See PARAGRAPH 127 THIS TITLE.

35. DESERTION.

See PARAGRAPH 37 THIS TITLE.

36. DISCHARGE CERTIFICATES.

Section 2440, Revised Statutes.

In all cases of discharge from the military service of the United States of any soldier of the Regular Army, when it appears to the satisfaction of the Secretary of War that a certificate of faithful services has been omitted by the neglect of the discharging officer, by misconstruction of the law, or by any other neglect or casualty, such omission shall not prevent the issuing of the warrant and patent as in other cases. And when it is proved that any soldier of the Regular Army has lost his discharge and certificate of faithful service, the Secretary of War shall cause such papers to be furnished such soldier as will entitle him to his land-warrant and patent, provided such measure is justified by the time of his enlistment, the period of service, and the report of some officer of the corps to which he was attached. (See paragraph 115 this title.)

27 April, 1816, c. 127, s. 2, v. 3, p. 317.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

(1) A discharge filed in a claim before this Office cannot be withdrawn. A certified copy of a certificate of discharge may be furnished.

Stuart, A. H. H., Secretary. Nov. 1, 1850. (No claim referred to.) O. W. and N. Vol. 4, p. 37.

BOUNTY LAND—Continued.

(2) Discharge filed in admitted claim for bounty-land cannot be withdrawn except for purpose of litigation.

Browning, O. H., Secretary. Sept. 29, 1866. Strong, George W. (No claim.) Vol. 2, p. 188.

(3) Attorneys are not recognized in applications for copies of discharge certificates.

Teller, H. M., Secretary. Feb. 10, 1885. B. L. Wt. No. 33,585-160—1847. Detrich, Joseph. O. W. and N. Vol. 3, p. 326.

See (3) AND (4) PARAGRAPH 138 THIS TITLE, also (2) PARAGRAPH 45 THIS TITLE, AND PARAGRAPH 51 THIS TITLE.

37. DISCHARGE, HONORABLE.**Section 2438, Revised Statutes.**

No person who has been in the military service of the United States shall, in any case, receive a bounty-land warrant if it appears by the muster-rolls of his regiment or corps that he deserted or was dishonorably discharged from service.

28 Sept., 1850, c. 85, s. 1, v. 9, p. 520; 3 March, 1855, c. 207, s. 1, v. 10, p. 701.

(See also law in paragraph 36 this title.)

DECISIONS OF THE SECRETARY OF THE INTERIOR.

(1) A soldier enlisted for five years in Mexican war, but discharged at its close on a writ of habeas corpus, is entitled to bounty-land.

[NOTE.—Applies chiefly to section 2418, Revised Statutes.]

Goddard, D. C., Acting Secretary (Chief Clerk). August 18, 1849. B. L. Wt. No. 64,619-160—1847. Barnard, James. O. W. and N. Vol. 4, pp. 3, 4.

(2) A soldier discharged for disability existing at time of enlistment must have passed the usual examination and been accepted, and is therefore entitled.

Ewing, T., Secretary. Sept. 1, 1849. B. L. Wt. No. 64,741-160—1847. Johnson, Charles. O. W. and N. Vol. 4, p. 4. Reversing decision of same Secretary of June 2, 1849, in case of Henry Brand. B. L. Wt. No. 60,296-160—1847. O. W. and N. Vol. 4, p. 1.

Ewing, T., Secretary. Sept. 5, 1849. B. L. Wt. No. 64,180-160—1847. McPhleany, William. O. W. and N. Vol. 2, p. 35.

(3) Death of a soldier after completing his service in the Mexican war, but before receiving his discharge, does not impair title.

[NOTE.—Applies chiefly to section 2418, R. S.]

Ewing, T., Secretary. Feb. 28, 1850. B. L. Wt. No. 64,899-160—1847. Talbert, John F. M. and M., p. 545.

(4) Soldiers in the Mexican war, who were honorably discharged, for reasons not shown by the rolls or certificate of discharge, must prove by credible persons, that they were discharged in consequence of wounds received or disease contracted in service.

[Affects only cases coming under act, 1847, or section 2418, R. S.]

Ewing, T., Secretary. March 9, 1850. Peyton, Elijah A. (No claim found.) M. and M. p. 547.

BOUNTY LAND—Continued.

(5) A soldier honorably discharged at his own request, or that of his friends, at close of Mexican war, although he may not have completed term of enlistment, is entitled.

[NOTE.—Applies chiefly to section 2418, R. S.]

Ewing, T., Secretary. June 7, 1850. B. L. Wt. No. 70,279-160—1847. Reese, Samuel. O. W. and N. Vol. 4, p. 27.

(6) Officers and privates dismissed the service without trial, and remanded to service without trial, but, failing to receive order of the President, did not return to service, are entitled.

Goddard, J. C., Acting Secretary (Chief Clerk). Aug. 8, 1850. B. L. Wt. No. 70,745-160—1847. Hunter, Jason H. M. and M., pp. 558, 559.

(7) Payment of fine in lieu of service does not give title. An honorable discharge is indispensable.

Stuart, A. H. H., Secretary. Dec. 24, 1850. (No claim.) O. W. and N. Vol. 4, p. 41.

(8) A soldier received a furlough on account of sickness, was afterwards prevented joining his command by reason of its removal to a distant part of the country; entitled to credit for time from enlistment to removal of disability.

Stuart, A. H. H., Secretary. Feb. 8, 1851. Taylor, James. (No claim found.) O. W. and N. Vol. 4, pp. 44, 45.

(9) Desertion bars claim for service, if soldier deserted from term of service alleged as basis of claim.

Delano, C., Secretary. March 23, 1875. 1812 pension claim, No. 20,065. McAlpine, Daniel. Vol. 3, p. 498.

(10) Desertion is no bar, if from a former term of service.

Delano, C., Secretary. May 19, 1875. 1812 pension claim No. 3,858. Barnes, James, Vol. 3, p. 45.

(11) A soldier given up to civil authorities and sent to State prison was not honorably discharged.

Schurz, C., Secretary. April 17, 1877. B. L. No. 232,620. Tender, Hexas. O. W. and N. Vol. 1, p. 5.

See (1) AND (2) PARAGRAPH 106 THIS TITLE; PARAGRAPH 8, SERVICE PENSION WAR OF 1812; AND DISCHARGE.

38. DISLOYALTY.**Section 3480, Revised Statutes.**

It shall be unlawful for any officer to pay any account, claim, or demand against the United States which accrued or existed prior to the thirteenth day of April, eighteen hundred and sixty-one, in favor of any person who promoted, encouraged, or in any manner sustained the late rebellion, or in favor of any person who during such rebellion was not known to be opposed thereto, and distinctly in favor of its suppression; and no pardon heretofore granted, or hereafter to be granted, shall authorize the payment of such account, claim, or demand, until this

BOUNTY LAND—Continued.

section is modified or repealed. But this section shall not be construed to prohibit the payment of claims founded upon contracts made by any of the Departments, where such claims were assigned or contracted to be assigned prior to the first day of April, eighteen hundred and sixty one, to the creditors of such contractors, loyal citizens of loyal States, in payment of debts incurred prior to the first day of March, eighteen hundred and sixty-one.

Joint resolution, 2 March, 1867.

See PARAGRAPH 9, SERVICE PENSIONS WAR OF 1812.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

(1) Pardon by the Executive for participation in the late rebellion does not authorize the allowance of bounty-land, the right to which is the subject of a claim against the Government and is governed by the provisions of the joint resolution of March 2, 1867. [Section 3480, R. S.]

Cox, J. D., Secretary. Oct. 23, 1869. B. L. Wt. No. 80,652-160-1847. May, Benjamin H. Vol. 2, p. 138.

(2) Persons who aided or abetted in the rebellion are not entitled to bounty-land under act of March 3, 1855 [section 2425 *et seq.*, R. S.]. Pardon by the President does not restore the right.

Schurz, C., Secretary. Dec. 18, 1877. B. L. No. 331,762. Cluverious, Watt T. Vol. 5, p. 418.

(3) Proof of loyalty is required of persons residing in the late insurrectionary States in claims for bounty-land.

Gorham, Charles F., Acting Secretary. Oct. 10, 1876. B. L. No. 332,530. Ketchum, W. H. B. L. No. 332,507. Lenow, Joseph. Vol. 4, p. 427.

(4) A soldier of the war of 1812 lived in Tennessee during the late rebellion: *Held*, that his widow in the bounty-land claim should prove his loyalty.

Schurz, C., Secretary. March 5, 1878. B. L. No. 231,590. McDonald, Julia G. Vol. 5, p. 362.

(5) Holding office and performing duties of postmaster under the Confederate Government was aiding and abetting the rebellion.

Schurz, C., Secretary. June —, 1878. B. L. No. 332,860. McDonald, John W. O. W. and N. Vol. 1, p. 113.

(6) Presumption of disloyalty raised by the fact of payment of taxes to the Confederate Government and furnishing food and clothing to sons in the Confederate army from motives of "love, affection, and the dictates of humanity" may be rebutted by showing distinctly and positively that the taxes were paid under duress, that claimant was opposed to the enlistment of said sons, and that he was opposed to the rebellion and distinctly in favor of its suppression.

Schurz, C., Secretary. July 12, 1878. B. L. No. 333,028. Happel, Philip. Vol. 6, p. 24.

Schurz, C., Secretary. July 13, 1878. B. L. No. 333,216. Brown, Sarah, widow of Fielding G. O. W. and N. Vol. 1, p. 126.

(7) Loyalty need not be established in claims for the issuance of duplicate bounty-land warrants.

Kirkwood, S. J., Secretary. March 10, 1881. B. L. Wt. No. 40,060-160-1853. Dent, E. A., widow of John H. Vol. 8, p. 163.

BOUNTY LAND—Continued.**RULINGS OF COMMISSIONER OF PENSIONS.****RULING No. 36. June 9, 1870.**

Loyalty of minor children, who were residents in the Northern States during the war, may be presumed, in the absence of indications to the contrary.

RULING No. 38. March 4, 1872.

Loyalty of the soldier, if he survived after the commencement of the late rebellion, must in all cases be proven.

ORDER OF COMMISSIONER OF PENSIONS.**ORDER No. 38. January 28, 1876.**

That in the adjudication of claims for bounty-land warrants, or for pension, other than for service in the war of 1812, under the act of March 9, 1878, and for disability incurred in the war of the rebellion, proof of loyalty will be required as follows: The affidavit of the claimant showing loyalty to the United States during the rebellion, supported by the testimony of two credible, disinterested, loyal witnesses, whose credibility must be certified in the jurat by the officer before whom the testimony is taken, and whose credibility and loyalty, together with the credibility and loyalty of the claimant, must be certified by a United States officer; and, that the Office may be more fully satisfied as to the identity of the claimant in any claim for bounty-land warrant, or for pension, for service in the war of 1812, the identifying witnesses will, hereafter, be required, in all new claims and in all pending claims, where possible, to make affidavit, setting forth their post-office address, age, period of their acquaintance with the claimant, and such other facts within their knowledge as enable them to certify to the identity of the claimant. (See title Service Pension War of 1812.)

See also PARAGRAPH 51 THIS TITLE.

39. DOUBLE LAND WARRANTS.**DECISION OF THE ATTORNEY-GENERAL.**

(1) Every non-commissioned officer and soldier, enlisted during the war of 1812, after December 10, 1814 (under provisions of act of that date), is entitled to 320 acres.

Rush, Hon. Richard, Attorney-General. Aug. 1, 1815. Decisions of Attorneys-General, vol. 1, p. 184. M. and M., p. 339.

[NOTE.—The provisions of the law referred to have expired by limitation.]

See DECISION (1) PARAGRAPH 1 THIS TITLE; *also* DECISION (4) PARAGRAPH 76 THIS TITLE.

40. DUPLICATE WARRANTS.

See PARAGRAPH 129 THIS TITLE,

BOUNTY LAND—Continued.**41. EMPLOYÉS OF THE GOVERNMENT.**

See ATTORNEYS.

42. ERASURE OF WARRANT.

See PARAGRAPH 126 THIS TITLE.

43. EVIDENCE FROM PRIOR CLAIMS.**Section 2432, Revised Statutes.**

Where certificate or a warrant for bounty-land for any less quantity than one hundred and sixty acres has been issued to any officer or soldier, or to the widow or minor child of any officer or soldier, the evidence upon which such certificate or warrant was issued shall be received to establish the service of such officer or soldier in the application of himself, or of his widow or minor child, for a warrant for so much land as may be required to make up the full sum of one hundred and sixty acres, to which he may be entitled under the preceding section, on proof of the identity of such officer or soldier, or, in case of his death, of the marriage and identity of his widow, or, in case of her death, of the identity of his minor child. But if, upon a review of such evidence, the Commissioner of Pensions is not satisfied that the former warrant was properly granted, he may require additional evidence, as well of the term as of the fact of service.

14 May, 1856, c. 26, s. 1., v. 11, p. 8.

Section 2435, Revised Statutes.

Where a pension has been granted to any officer or soldier, the evidence upon which such pension was granted shall be received to establish the service of such officer or soldier in his application for bounty-land; and upon proof of his identity as such pensioner, a warrant may be issued to him for the quantity of land to which he is entitled; and in case of the death of such pensioned officer or soldier, his widow shall be entitled to a warrant for the same quantity of land to which her husband would have been entitled, if living, upon proof that she is such a widow; and in case of the death of such officer or soldier, leaving a minor child and no widow, or where the widow may have deceased before the issuing of any warrant, such minor child shall be entitled to a warrant for the same quantity of land as the father would have been entitled to receive if living, upon proof of the decease of father and mother. But if, upon a review of such evidence, the Commissioner of Pensions is not satisfied that the pension was properly granted, he may require additional evidence, as well of the term as of the fact of service.

14 May, 1856, c. 26, s. 2, v. 11, p. 8.

BOUNTY LAND—Continued.

(For law in regard to *False Affidavit*, see title EVIDENCE; see, also, paragraphs 51 and 105 of this title.)

44. EVIDENCE OF SERVICE OF COMPANY.

See PARAGRAPH 105 THIS TITLE.

45. EVIDENCE OF SERVICE.**Section 2431, Revised Statutes.**

Where no record evidence of the service for which a warrant is claimed exists, parol evidence may be admitted to prove the service performed, under such regulations as the Commissioner of Pensions may prescribe.

14 May, 1856, sec. 3.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

(1) The name of the principal appearing upon the rolls and he having obtained bounty-land, parol evidence cannot be admitted to show that a substitute performed the service.

Thompson, J., Secretary. Dec. 17, 1858. B. L. No. 265,622. Blodgett, Edward, substitute for Blackeslee, Linus. O. W. and N. Vol. 1, p. 12.

Thompson, J., Secretary. April 28, 1857. B. L. Wt. No. 5,395-160—1855. Whitney, William H. O. W. and N. Vol. 1, p. 98.

See PARAGRAPH 37 THIS TITLE.

(2) No record could be found of the service of company (a militia company of Kentucky, called out during the Burr insurrection) either in the archives of the General Government, or of the State, and the only evidence of service filed was a discharge certificate signed by a brigadier general of the Kentucky militia, who was shown by the records of the State to have been ordered out with some of his militia for a specific duty by an order of the governor of the State in compliance with a request of the President of the United States: *Held*, that the discharge certificate was of the character of evidence prescribed by the rules of the Department for the government of the Pension Office in the adjudication of bounty-land claims; that its narrative was not at variance, but in harmony with the history of the times, and that, in the absence of well founded suspicion, its genuineness ought to be admitted and it be accepted as evidence of the service.

[Reversed. See paragraph 105 this title.]

Usher, J. P., Secretary. Jan. 14, 1864. B. L. Wt. No. 102,408-160—1855. Blankenbaker, Lewis. Vol. 1, p. 28.

(3) Evidence cannot be received to show that service was longer than that shown by the record.

Chandler, Z., Secretary. Feb. 17, 1876. Vol. 4, p. 214. See Capt. Giles Harrington (1839) Vermont Militia roll 257, on file in Pension Office.

See PARAGRAPH 51 THIS TITLE; PARAGRAPH 103 TO 106, INCLUSIVE, THIS TITLE.

BOUNTY LAND—Continued.**RULING OF THE COMMISSIONER OF PENSIONS.**

RULING No. —. *March 28, 1885.*

The practice of this office in declining to receive parol evidence to show service in the Mexican war, should be adhered to.

B. L. No. 836, 119. Campbell, Benjamin. O. W. and N. Vol. 3, p. 338.

ORDERS OF THE COMMISSIONER OF PENSIONS.

ORDER No. 34. *November 6, 1875.*

That, in the adjudication of claims for pension or bounty-land, the service and signatures of officers or enlisted men who testify as to origin of disability, or other facts relative to the service of a soldier, should be referred to the proper departments for verification when necessary.

ORDER No. 41. *April 11, 1876.*

In the adjudication of claims for pension and bounty-land, the service of officers and enlisted men, who testify as to the origin of disease or other facts relative to the service of the soldier, should be referred to the proper department for verification. The verification of signatures of officers and enlisted men will not be required, except at the discretion of chief of division. (See paragraph 51 this title.)

46.—EXECUTION OF PAPERS.

See PARAGRAPH 51 THIS TITLE.

47.—FATHER AND MOTHER.

(For law see paragraph 115 this title.)

DECISIONS OF THE SECRETARY OF THE INTERIOR.

(1) Under act of February 11, 1847, the mother of illegitimate children may inherit bounty-land from them, but not the putative father.

[Section 2418, R. S.]

Ewing, T., Secretary. July 5, 1850. Turner, Thomas. M. & M., p. 555. (No claim found.)

(2) Mothers of commissioned officers are not entitled under the act of September 28, 1850.

[NOTE.—Nullified by provisions of section 2418, R. S.]

McClelland, R., Secretary. Nov. 14, 1853. O. W. and N. Vol. 4, p. 65. (No claim found.)

(3) A father of a commissioned officer is not entitled under the act of February 11, 1847.

[NOTE.—Nullified by provisions of section 2418, R. S.]

Thompson, J., Secretary. March 24, 1859. B. L. No. 3491—1850. Travel, Abraham, father of Travel, Robert. O. W. and N. Vol. 4, p. 89.

(4) Mothers of soldiers who served between the commencement of the war of 1812 (June 18, 1812) and the 3d day of March, 1850, as well as

BOUNTY LAND—Continued.

the mothers of soldiers who served in the war with Mexico, are entitled to bounty-land under section 2418, Revised Statutes.

[See note. Section 2418, paragraph 115 this title.]

Schurz, C., Secretary. May 26, 1880. B. L., No. 334,954. Hip, Villot, mother of Morgan, Jorden. Vol 7, p. 267.

See PARAGRAPH 15, DECISION (3) AND PARAGRAPH 51 THIS TITLE.

48. FEES OF AGENTS AND ATTORNEYS.**DECISION OF THE SECRETARY OF THE INTERIOR.**

(1) The act of June 20, 1878, repealed all provisions in relation to fees in bounty-land claims filed after the passage of the act and made no provision in lieu thereof in such claims. The question of fee was left as an open one between claimants and attorneys, subject to supervision of the office to prevent extortion, deception, or fraud, by the agent or attorney.

Instructions: Schurz, C., Secretary. Jan. 10, 1879. O. W. and N. Vol. 2, p. 236.

RULING OF THE COMMISSIONER OF PENSIONS.

RULING No. —. October 31, 1878.

The act of June 20, 1878, "relating to claim agents and attorneys in pension cases" is held to apply in bounty-land claims in the same manner as in pension claims. Fees not in excess of those allowed in pension claims may be demanded.

O. W. and N. Vol. 2, p. 41.

[The act of July 4, 1884, is now in force and repeals act of June 20, 1878.]

(For laws and other decisions see title *Fees of Agents and Attorneys*.)

49. FEE AGREEMENTS OR CONTRACTS.**DECISION OF THE SECRETARY OF THE INTERIOR.**

(1) Fee contracts filed in bounty-land claims under the general laws, do not apply to special act claims.

Schurz, C., Secretary. Jan. 10, 1879. Vol. 6, p. 221.

(For law and other decisions see title *Fee Agreements and Contracts*.)

50. FORGERY, &C., OF LAND WARRANTS.**Section 5420, Revised Statutes.**

Every person who falsely makes, alters, forges, or counterfeits any military bounty-land warrant or military bounty-land warrant certificate issued or purporting to have been issued by the Commissioner of Pensions under any act of Congress, or any certificate of location of any military bounty-land warrant, or any duplicate thereof, or military bounty-land warrant certificate upon any of the lands of the United States, or any certificate of the purchase of any of the lands of the United States, or any duplicate certificate of the purchase of any of the

BOUNTY LAND—Continued.

lands of the United States, or any receipt for the purchase-money of any of the lands of the United States, or any duplicate receipt for the purchase-money of any lands of the United States, issued or purporting to have been issued by the register and receiver at any land-office of the United States, or by either of them, or who passes, utters, or publishes as true any false, forged, or counterfeited military bounty-land warrant, military bounty-land warrant certificate, certificate of location, or duplicate certificate of location, certificate of purchase, duplicate certificate of purchase, receipt, or duplicate receipt, for the purchase-money of any of the lands of the United States, knowing the same to be false or forged, shall be imprisoned at hard labor not less than three years nor more than ten years.

5 Feb., 1859, c. 23, v. 11, p. 381.

(For further laws, see title FORGERY, and section 5746, Revised Statutes, title EVIDENCE.)

51. FORMS, INSTRUCTIONS, AND REGULATIONS.**Section 4748, Revised Statutes.**

That the Commissioner of Pensions, on application being made to him in person or by letter, by any claimant or applicant for pension, bounty-land, or other allowance required by law to be adjusted or paid by the Pension Office, shall furnish such person, free of all expense, all such printed instructions and forms as may be necessary in establishing and obtaining said claim.

* * * * *

3 March, 1873, c. 234, s. 22, p. 573.

FORMS, INSTRUCTIONS, AND REGULATIONS.**REGULATIONS.**

[NOTE.—By strict compliance with the following instructions, a claim may generally be completed with little or no correspondence.]

(1) *Applications or declarations.*—Applications for bounty-land warrants should be made substantially according to the forms hereinafter given, and the instructions given in the notes on the forms must be as fully complied with as the circumstances of each case will permit.

Declarations must be made before a court of record, or before some officer thereof having custody of its seal. But in localities more than 25 miles from any place at which such court is holden, the Commissioner of Pensions may designate persons duly qualified to administer oaths, before whom declarations may be made.

Applications made by Indians must be authenticated according to the regulations to be prescribed by the Commissioner of Indian Affairs.

Applications in behalf of *minor* children should be made by their legal guardians. When several minors are entitled to the same gratuity,

BOUNTY LAND—Continued.

the declaration may be made in behalf of any one of them. The warrant will be issued to all jointly.

A blank form of declaration will be furnished upon request of any person desiring to apply for a warrant. Such blanks are not furnished to attorneys by this office.

(2) *Assignment and location of warrants.*—Inquiries relative to the assignment and location of bounty-land warrants should be addressed to the Commissioner of the General Land Office, and also all communications in regard to homestead lands for service during the late rebellion.

(3) *Bounty in money.*—Communications in regard to back pay, extra pay, and bounty, in money, for army service, should be addressed to the Second Auditor, and for extra pay, prize money, &c., for naval service, to the Fourth Auditor, United States Treasury Department.

(4) *Copies or originals of papers.*—Neither the original nor a copy of any essential paper, except the soldier's certificate of discharge from the United States service, filed in a claim before this office, will be furnished except upon the call of an officer of the Government or of a court in which it is required for litigation not against the General Government.

(5) *Discharge certificates, copies of.*—Certified copies of original discharge certificates will be furnished upon the application of the soldier himself or his heirs. Said application should be made in the form of an affidavit, setting forth a full description of the soldier, viz, his age at time of enlistment; his occupation, birth-place, height, color of hair, eyes, and complexion; and giving the date and place of his enlistment or muster into service, and the date and place of his discharge.

(6) *Duplicate warrants, rules governing issue of.*—First. Whenever a warrant has failed to reach the hands of the party entitled to receive it, and to whom it was sent, or has been lost or destroyed after having been received, in order to prevent the issuing of a patent to a fraudulent holder of the same, the actual owner must at once file in the *General Land Office* a caveat, in the form of an affidavit, duly authenticated, setting forth the nature of his title to the warrant, and the particulars as to its loss [or destruction], and giving his post-office address; and these facts must be established by satisfactory evidence filed in the *Pension Office*.

Second. He must give public notice of the facts in the case, at least once a week, for six successive weeks in some newspaper of general circulation published at or nearest the place to which the warrant was directed, or where the loss occurred. In such publication (a copy of which must be furnished to the *Pension Office* with the affidavit of the publisher as to its due appearance) the intention must also be expressed of applying to the Commissioner of Pensions for a reissue of the lost warrant, which must be minutely described.

BOUNTY LAND—Continued.

Third. The filing of the caveat in the *General Land Office* and the advertisement of the loss being only preliminary steps toward the observance of the regulations, the owner of the lost warrant must file in the *Pension Office*, as soon after the discovery of the loss as practicable, his declaration, under oath, duly authenticated, setting forth fully and distinctly the time, place, and circumstances of the loss, and that he never sold, assigned, nor voluntarily parted with his right to the warrant in question.

Fourth. In cases where a reissue of a warrant is sought on the ground of the non-reception of the original warrant, the agent or person to whom it was sent must unite with the warrantee or make a separate affidavit as to its non-reception.

Fifth. If the applicant for the reissue be not the person to whom the warrant was issued, but claims to be the owner thereof by purchase for a valuable consideration, he must give the name and residence of the warrantee, the name and residence of the person of whom he bought it, and, as far as he may know, or can ascertain, the names and residences of each of the several parties through whom the title of the warrant descended to him from the warrantee, *and adduce satisfactory evidence in proof of each and all his statements in reference thereto.*

Sixth. The identity of the applicant must be satisfactorily established, and the credibility of each and every affiant must be duly certified by the magistrate administering the oaths, and his official character and signature must be certified by the clerk of the proper court of record of his county, under the seal of the court. No warrant will be reissued under the foregoing act until after the expiration of three months from the date of the filing of the petition in the *Pension Office*, and not then if it shall appear that the original warrant is in existence.

The foregoing regulations will be strictly enforced in every instance.

(7) *Evidence, character of.*—Every fact required to be proved should be shown by the best evidence obtainable.

Evidence to complete claims of deceased persons.—In completing the claim of a deceased person leaving no successor to whom the title would descend under the bounty-land laws, the legal representatives must furnish proof of the death of the claimant; and if he died intestate, proof of heirship will be required, which proof must show the time and place of death of the claimant, the name, age, and post-office address of each and every his heirs-at-law, and their relationship to the deceased; and where a will is left, a duly certified copy of it, with letters of probate, must be presented; and in either case full authority must be given by the heirs or devisees, if adults, or by their guardians, if minors, for the delivery of the warrant to some designated person. If an executor has been designated by will, the claim should be completed by him. If there be no executor, it is desirable that an administrator be appointed to complete the claim.

BOUNTY LAND—Continued.

Evidence in claims of fathers, mothers, brothers, and sisters.—In a claim by a father, mother, or brothers and sisters, the relationship must be clearly proved, and the death of all persons who would, under the law, have a prior title to the bounty land.

Evidence of identity.—In all cases the identity of the claimant, as the soldier, or the heir of the soldier, who rendered the service, must be clearly shown by the testimony of parties who have personal knowledge of the facts as to identity or by the equivalent of such evidence.

Evidence of loyalty.—An affidavit of the claimant and the testimony of at least two credible and disinterested witnesses having personal knowledge of the facts are required, showing specifically whether the claimant, or if the soldier has died since March 4, 1861, and claim is made by the widow or other heir, whether the claimant and the soldier in any manner aided or abetted the Confederate Government, or whether, on the contrary, such person or persons were known to be opposed to the rebellion, and distinctly in favor of its suppression; and in case of the soldier, or any other male person, whether he voted for secession, served in the Confederate Army, or held any office under the Confederate Government.

Evidence in minors' claims.—Claims in behalf of children who are minors should be made by their legal guardians. When several minors are entitled to the same gratuity, the declaration may be made in behalf of any one of them. The warrant will be issued to all jointly. In addition to proof of service and death of soldier, as in widows' claims, applications in behalf of minors must be supported by proof that they are the legitimate children of the soldier on account of whose service the claim is made, of the death of the widow, and that they are the only surviving children of the soldier who were under twenty-one years of age on the 3d day of March, 1855.

See sec. 2430, R. S.; Paragraph 115 this title.

To establish the legitimacy of the children the marriage of the mother to the soldier and their births must be proved.

The dates of birth of children should be proved: (1) By a duly verified copy of the church record of baptism or public record; (2) By the affidavit of the physician who attended the mother; or (3) By the testimony of persons who were present at the births, who should state how they are able to testify to the precise dates.

The evidence is here stated in the order of the weight which is attached to it by this office. The lower classes of evidence will not be received unless it be shown that better evidence cannot be obtained.

Evidence of the appointment of the guardian, under the seal of the court by which it was made, must be furnished; and if any other guardian was previously appointed, it must be shown that his authority has terminated or has been revoked.

BOUNTY LAND—Continued.

Evidence from prior claims or records.—Any evidence already on file in this or any other Bureau of the Government may be made available in a claim for bounty-land if a particular and definite description of the matter in which it has already been used be furnished this office.

Evidence of service.—When record evidence of the service on account of which a claim is made does not exist, the positive testimony of at least two comrades of the same company will be required to prove service. The witnesses must state particularly the facts and circumstances of the service.

In no case will parol evidence be admitted to vary or discredit the length of any service shown by the rolls. (See also section 24331, Revised Statutes, Paragraph 115 this title.)

Evidence in widows' claims.—Claims by widows must be supported by satisfactory proof of the marriage of the claimant to the soldier on account of whose service her claim is made, of his death, and that the claimant at the time of making her application was a widow, *i. e.*, unmarried. The marriage of the widow to the person on account of whose service and death the claim is made should be shown: (1) By a duly verified copy of a church or public record; (2) By the affidavit of the clergyman or magistrate who officiated; (3) By the testimony of two or more eye-witnesses to the ceremony; (4) By the testimony of two or more witnesses who knew that the parties lived together as husband and wife, and who will state how long, within their knowledge, such cohabitation continued.

In the foregoing statement the classes of evidence are arranged in the order of their relative weight. The lower classes of evidence will not be accepted unless it be shown that better evidence cannot be obtained.

The evidence to prove the existing widowhood of the claimant must be direct, and the statement of witnesses that the claimant is the party she represents herself to be will not be received as satisfactory proof of widowhood.

(8) *Execution of declarations and affidavits.*—Whenever a declaration or affidavit is written upon more than one piece of paper, the authentication of the whole and of each piece must be shown as follows:

1. They must be attached to each other and to the jurat by a piece of tape, the ends of which pass under the official seal of the officer, or,
2. An impression of the seal must be made *through* the jurat upon each of the separate pieces of paper.

All affidavits in a claim for bounty land may be executed before an officer duly authorized to administer oaths for general purposes; but a declaration or affidavit executed before an officer who is engaged in the prosecution of the claim, or who has a manifest interest therein, will not be accepted. Any officer before whom testimony in a claim for bounty-land may be taken must therefore set forth in his certificate that he has no interest in the prosecution of such claim.

BOUNTY LAND—Continued.

The official character and signature of the magistrate, who administers the oath, must be certified by the proper officer of a court of record, under the seal of such court.

When the commission of a notary public or other officer competent to administer oaths for general purposes, or a certified copy of his appointment, with his official seal (if he has one) and signature attached, and the certificate of the clerk of a court or other proper officer to the genuineness of his signature, is filed in this office, his own certificate under his official seal will be recognized thereafter during his term of office. When a general certificate as to the authority and signature of a notary or other officer has been filed in this office, reference should be made to such general certificate upon all papers verified before him thereafter. See page 99 for form of certificate.

The officer before whom a declaration or affidavit is executed must certify as to his knowledge of the credibility of the witnesses, and must state how such knowledge was obtained. If they sign by mark, he must certify that the contents of their depositions were fully made known to them before he administered the oath.

Affidavits should be free from interlineations and erasures. When an alteration is made in an affidavit or an addition is made thereto it must appear by the certificate of the officer who administered the oath that such alteration or addition was made with the knowledge and consent of the affiant before the oath was administered.

The official certificates of judicial officers using a seal, or of commissioned officers of the Army or Navy in actual service, will be accepted without affidavit; but all other witnesses must testify under oath.

(9) *Inquiries and additional evidence.*—All inquiries addressed to this office, and all additional evidence filed should be accompanied with a description of the claim to which it relates, viz, the number of the claim, the name, residence, and post-office address of the claimant, and the name of the soldier on account of whose services the claim is made, with his company, regiment, and the State from which he enlisted.

(10) *Records, information from.*—No information will be furnished from the records relative to the service of those in whose right claims are supposed to exist, and no opinion will be given as to title of parties to bounty-land, until their claims are properly before this office.

Parties in making application for land warrants should state as fully as possible all the facts known to them relative to the soldiers' service, give his personal description, and places of residence at the time of the service and since, the office will then apply any evidence found in any Department of the Government to the settlement of the claim.

(11) *Witnesses.*—Witnesses should not merely confirm the statements of other parties, but they should give a detailed statement of the facts known to them in regard to the matter concerning which they may

BOUNTY LAND—Continued.

testify, and they should state how they obtained a knowledge of such facts.

Witnesses testifying to facts required to be proved in the prosecution of a claim for bounty-land should, if possible, be other than near relatives of the claimant.

Every witness should state whether he has any interest, direct or indirect, in the prosecution of the claim in which he may be called to testify, and should state his age.

The residence and post-office address of each witness should be given in his (or her) affidavit, and this office should be promptly notified of any change of residence of an applicant while claim is pending. Street and number should be given if the residence is in a city.

Declaration by a soldier.

STATE OF ———, COUNTY OF, ———, ss :

On this ——— day of ———, A. D. one thousand eight hundred and ———, personally appeared before me, ———, the same being a court of record within and for the county and State aforesaid, ¹ ———, aged ——— years, a resident of ———, in the county of ———, in the State of ———, who, being duly sworn, according to law, declares that he is the identical ² ———, who served under the name of ³ ——— as a ⁴ ———, in the company commanded by Captain ———, in the ——— regiment of ———, commanded by ———, in the war of ⁵ ———; that he ⁶ ——— at ——— on or about the ——— day of ———, A. D. ———, for the term of ———, and continued in actual service in said war for the term of ⁷ ———, and was honorably discharged at ——— on the ——— day of ———, A. D. ———. That since his discharge from said service he has resided as follows, viz : ⁸ ———.

That he did not aid or abet the rebellion but was opposed thereto and distinctly in favor of its suppression.

The following was his description at the time of his enlistment, viz : ⁹ ———.

He makes this declaration for the purpose of obtaining the bounty-land (or the additional bounty-land) to which he may be entitled under the act approved March 3, 1855, and hereby appoints ———, of ———, his lawful attorney, ——— to prosecute his claim. He also declares that he has heretofore made ——— application for ¹⁰ ———, and that his residence is No. ———, ——— street, city (or town) of ———, county of ———, and State of ———, and that his post-office address is ———.

Attest : ———.

— — — — —
— — — — —

¹ Here allege full name of the claimant.

² Here allege the name of claimant again.

³ Here allege the exact name under which the service was rendered.

⁴ Here allege the rank under which the service was rendered.

⁵ Here name the war in which he was engaged.

⁶ Here state "enlisted," "volunteered," or "was drafted," as the case may be.

⁷ Here allege the number of days or months of service rendered by the claimant; fourteen days being the shortest period for which bounty-land is by law allowed, unless the claimant was actually engaged in a battle. If the claim is made for battle service, or for service at Plattsburgh in 1814, or for services at the battle of Nickojack, or for services at the battle of Lewistown in the war of 1812, the blank should be so varied as to allege such service in addition to the allegation of term of service.

⁸ Here state all the places of residence; if in a city, giving the street and number, and from and to what dates he resided at each place.

⁹ Here let a full description follow, giving age, occupation, birthplace, height, color of hair, eyes, and complexion, and any other particulars as to description.

¹⁰ If any application for bounty-land or pension has previously been made, state the fact here, giving the date and number, if possible, and designating whether it was a claim for bounty-land or pension, and whether a warrant for the land or a certificate for the pension was ever issued.

BOUNTY LAND—Continued.

Also personally appeared _____, aged _____ years, residing at No. _____, _____ street, in _____, and _____, aged _____ years, residing at No. _____, _____ street, in _____, persons whom I certify to be respectable and entitled to credit, and who, being by me duly sworn, say that they have known the said _____ for _____ years and _____ years, respectively; that they were present and saw him sign his name (or make his mark) to the foregoing declaration; that they have every reason to believe, from the appearance of said claimant and their acquaintance with him, that he is the identical person he represents himself to be; and they further say that they are able to identify him as the identical person who rendered the service alleged in the above application (in the company of Captain _____, in the regiment of _____ in the war of _____) by the following-named facts and circumstances, viz: '_____ and that they have no interest in the prosecution of this claim.

Sworn to and subscribed before me this _____ day of _____, A. D. 18—; and I hereby certify that the contents of the above declaration, &c., were fully made known and explained to the applicant and witnesses before swearing, including the words _____ erased, and the words _____ added; and that I have no interest, direct or indirect, in the prosecution of this claim.

[L. S.]

[Official character.]

Declaration by a widow.

STATE OF _____, COUNTY OF _____, ss:

On this _____ day of _____, A. D. one thousand eight hundred and _____, personally appeared before me, _____, the same being a court of record within and for the county and State aforesaid,¹ _____, aged _____ years, a resident of _____, in the State of _____, who, being duly sworn according to law, declares that she is the widow of² _____, deceased, who³ was the identical⁴ _____, who served under the name of⁵ _____, as a⁶ _____ in the company commanded by Captain _____, in the war of⁷ _____; that her said husband⁸ _____ at _____ on or about the _____ day of _____, A. D. _____, for the term of _____, and continued in actual service in said war for the term of⁹ _____, and whose services terminated by reason of¹⁰

¹ Here name all the facts and circumstances which enable the witnesses to swear that they know the applicant to be the identical person who rendered the service alleged.

If the applicant was a regimental or staff officer, or served in the Navy, the declaration must be varied according to the facts of the case.

If the claimant was discharged in consequence of disability incurred by the service, or if he was in captivity with the enemy, he must vary his declaration so as to set forth the facts of the case.

All services rendered by the soldier in the war for which claim is made, or in any other war, with the names of officers in each service, must be given in the application.

² Here allege full name of applicant.

³ Here allege full name of soldier.

⁴ Here allege again the name of soldier.

⁵ Here allege the name under which the soldier served.

⁶ Here allege the rank under which the soldier served.

⁷ Here allege the war in which the service was rendered.

⁸ Here state "enlisted," "volunteered," or "was drafted," as the case may be.

⁹ Here state the number of days or months of service rendered by the soldier; fourteen days being the shortest period for which bounty-land is by law allowed, unless the soldier was actually engaged in a battle. If the claim is made for battle service, or for service at Plattsburgh in 1814, or for services at the battle of Nickojack, or for services at the battle of Lewistown in the war of 1812, the blank should be so varied as to allege such service in addition to the allegation of term of service.

¹⁰ Here insert the words "an honorable discharge," or "death," as the case may be.

BOUNTY LAND—Continued.

_____, at _____, on the _____ day of _____, A. D. _____. She further states that the following is a full description of her said husband at the time of his enlistment, viz:¹ ______. She furthermore states that she is now a widow.

She further states that she was married to the said _____, at the city (or town) of _____, in the county of _____, and in the State of _____, on the _____ day of _____, A. D. _____, by one² _____, who was a³ _____; and that her name before her said marriage was _____; and she further states that⁴ _____ and that her said husband⁵ _____, died at _____, in the State of _____, on the _____ day of _____, A. D. _____; and she further declares that the following have been the places of residence of herself and her said husband since the date of his discharge from the Army, viz:⁶ _____.

That she did not aid or abet the rebellion but was opposed thereto and distinctly in favor of its suppression.

She makes this declaration for the purpose of obtaining the bounty-land (or the additional bounty-land) to which she may be entitled under the act approved March 3, 1855, and hereby appoints _____, of _____, her true and lawful attorney, to prosecute her claim; and she further declares that she has heretofore made _____ application for⁷ _____, and that her residence is No. _____, _____ street, city (or town) of _____, county of _____, State of _____, and that her post-office address is _____.

Attest:

Also personally appeared _____, aged _____ years, residing at No. _____ street, in _____, and _____, aged _____ years, residing at No. _____ street, in _____, persons whom I certify to be respectable and entitled to credit, and who, being by me duly sworn, say that they have known the said _____ for _____ years and for _____ years, respectively; that they were present and saw her sign her name (or make her mark) to the foregoing declaration; that they have every reason to believe, from the appearance of said claimant and their acquaintance with her, that she is the identical person she represents herself to be; that they know her to be now a widow; and they further say that they are able to identify her as the person who was the wife of the identical⁸ _____, who rendered the service alleged in the above application (in the company of Captain _____, in the regiment of _____, in the war of _____) by the following-named facts and circumstances, viz:⁹ _____, and that they have no interest in the prosecution of this claim.

¹ Here let a full description of the soldier follow, giving age, occupation, birthplace, height, color of hair, eyes, and complexion, and any other particulars as to description.

² Here allege the name of the person who performed the marriage ceremony.

³ Here state the official character of the person who performed the ceremony, i. e., whether a minister of the gospel or a justice of the peace, &c.

⁴ Here state whether the claimant or her husband (the soldier) had been previously married; and if either had, the name of the former husband or wife should be stated; and the date and place of the death of, or divorce from, the former consort should be alleged.

⁵ Here insert the name of the husband on account of whose service and death the claim is made.

⁶ Here state all the places of residence; if in a city, giving the street and number; and from and to what dates he resided at each place.

⁷ If any application for bounty-land or pension has previously been made, state the fact here, giving the date, and number if possible, and the act of Congress under which the claim was made; and designating whether it was a claim for bounty-land or pension, and whether a warrant for the land or certificate for the pension was ever issued.

⁸ Here insert the name of the soldier.

⁹ Here name all the facts and circumstances which enable the witnesses to swear, from a personal knowledge, that the claimant is the widow of the identical person who rendered the service alleged in the claim.

All services rendered by the soldier in the war for which claim is made, or in any other war, with the names of officers in each service, must be given in the application.

BOUNTY LAND—Continued.

Sworn to and subscribed before me this — day of —, A. D. 18—; and I hereby certify that the contents of the above declaration, &c., were fully made known and explained to the applicant and witnesses before swearing, including the words —, erased, and the words —, added; and that I have no interest, direct or indirect, in the prosecution of this claim.

[L. S.]

_____,
_____,
[Official character.]

Declaration by minor children.

Children, who are minors at the time of making the application, should be represented by a legal guardian.

STATE OF —, COUNTY OF —, ss :

On this — day of —, A. D. one thousand eight hundred and —, personally appeared before me, —, the same being a court of record within and for the county and State aforesaid,¹

residents of —, aged, respectively, — years, who, being duly sworn according to law, make the following declaration in order to obtain the bounty-land provided by acts of Congress for minor children: That they are the legitimate children of² —, who was the identical² — who served under the name of² —, as a³ — in the company commanded by Captain —, in the — regiment of —, commanded by —, in the war of⁴ —, and that he⁵ — at —, on or about the — day of —, A. D. —, for the term of⁶ — and continued in actual service in said war for the term of⁷ —, and whose services terminated, by reason of⁸ —, at —, on the — day of —, A. D. —. They further state that the following is a full description of said soldier at the time of his enlistment, viz :⁹

They further state that their father (the said soldier) died at —, in the county of — and State of —, on the — day of —, A. D. —; that he left — widow surviving him¹⁰ —; that the above named are the only surviving legitimate

¹ Here allege full names of applicants.

² Give full name of soldier in each of the places marked (2).

³ Here give rank of soldier.

⁴ Here state the war in which soldier served.

⁵ Here insert the word "enlisted," "volunteered," or "was drafted," as the case may be.

⁶ Here state the length of time for which soldier enlisted.

⁷ Here state the number of days or months of service rendered by the soldier; fourteen days being the shortest period for which bounty-land is by law allowed, unless the soldier was actually engaged in a battle. If the claim is made for battle service, or for service at Plattsburgh in 1814, or for service at the battle of Nickojack, or for service at the battle of Lewistown in the war of 1812, the blank should be so varied as to allege such service in addition to the allegation of term of service.

⁸ Here insert the words "an honorable discharge," or "death," as the case may be.

⁹ Here let a full description of soldier follow, giving age, occupation, birthplace, height, color of hair, eyes, and complexion, and any other particulars as to description.

¹⁰ If a soldier left a widow, here state whether she has died, and if so, when.

BOUNTY LAND—Continued.

children by any marriage of said ¹ ———, who were under 21 years of age on the 3d of March, 1855; the dates of their birth being as follows, viz:

——— of soldier by ² ———, born ———, 18—, at ³ ———.
 ——— of soldier by ———, born ———, 18—, at ———.
 ——— of soldier by ———, born ———, 18—, at ———.
 ——— of soldier by ———, born ———, 18—, at ———.
 ——— of soldier by ———, born ———, 18—, at ———.

They further state that their father, the said soldier, was married under the name of ———, at ———, county of ———, State of ———, on the ——— day of ———, A. D. ———, to ⁴ ———, and that prior to said marriage ⁵ ———

that they, the said children, did not aid or abet the rebellion, either directly or indirectly; that they make this declaration for the purpose of obtaining the bounty-land (or the additional bounty-land) to which they may be entitled under the act approved March 3, 1855; and that they have heretofore made ——— application for ⁶ ———, and they hereby appoint ———, of ———, their true and lawful attorney, to prosecute ——— claim; and they further declare that the following have been the places of residence of the said soldier, his wife (the mother of these claimants), and of said claimants, from the date of the soldier's discharge from the Army to the present time, viz: ⁷

that their respective residences are

and that their several post-office addresses are

Attest:

Also personally appeared ———, aged ——— years, residing at No. ——— street, in ———, and ———, aged ——— year, residing at No. ——— streets in ———, persons whom I certify to be respectable and entitled to credit, and who, being by me duly sworn, say that they were present and saw ———, ———, ———, ———, the claimants, sign their names (or

¹ Give full name of the soldier.

² Here give the maiden name of mother.

³ Place of birth should always be given.

⁴ Here give full maiden name of last wife of soldier.

⁵ Here state whether the soldier, or the mother, had been previously married; and if either had the name of the former wife or husband should be stated; and the date and place of the death of, or divorce from, the former consort should be alleged.

⁶ If any application for bounty-land or pension has previously been made, state the fact here, giving the date, and number if possible, and the act of Congress under which the claim was made; and designating whether it was a claim for bounty-land or pension, and whether a warrant for the land or certificate for the pension was ever issued.

⁷ Here state all the places of residence of the soldier while he lived after his discharge, and all the places of residence of the widow while she lived after the soldier's death; and all the places of residence of the minors after the death of both parents, stating from, and to, what dates the residence was at each place.

BOUNTY LAND—Continued.

make their marks) to the foregoing declaration, and they have known the said claimants for — years and for — years, respectively; and that they have every reason to believe, from the appearance of said claimants, and their acquaintance with them, that they were the minor children on March 3, 1855, of the identical¹ — who rendered the service alleged in the above application (in the company of Captain —, in the regiment of —, in the war of —); and they further declare that they are able to so swear as to the identity of the said children from the following facts and circumstances, viz :²

and they have no interest in the prosecution of this claim.

Sworn to and subscribed before me this — day of —, A. D. 18—; and I hereby certify that the contents of the above declaration, &c., were fully made known and explained to the applicants and witnesses before swearing, including the words — erased, and the words —, added; and that I have no interest, direct or indirect, in the prosecution of this claim.

[L. S.]

[Official character.]

Declaration by father or mother.

STATE OF —, COUNTY OF —, ss :

On this — day of —, A. D. one thousand eight hundred and —, personally appeared before me, —, the same being a court of record within and for the county and State aforesaid,³ —, aged — years, a resident of —, in the State of —, who, being duly sworn according to law, declares that — is the — of⁴ —, deceased, who was the identical⁵ — who served under the name of⁶ — as a⁷ — in the company commanded by Captain —, in the — regiment of —, commanded by —, in the war of⁸ —; that — said son⁹ — at —, on or about the — day of —, A. D. —, for the term of —, and continued in actual service in said war for the term of¹⁰ —, and whose services terminated, by reason of¹¹ —, at —, on the

¹ Give full name of the soldier.

² Here name all the facts and circumstances which enable the witnesses to swear, from a personal knowledge, that the minors for whom the claim is made are the children of the identical soldier who rendered the service alleged in the application.

All services rendered by the soldier in the war for which claim is made, or in any other war, with the names of officers in each service, must be given in the application.

If the claimants are not all residents of the same section of the country, they can make separate applications, each using this form, and naming all the other minor children, giving their residences. Or, they may authorize one of their number to make application on behalf of all; such authority must be in legal form, duly executed and witnessed, and filed in this office.

³ Here allege full name of applicant.

⁴ Here insert the word "father" or "mother" (as the case may be).

⁵ Allege the name of soldier in each of the spaces numbered (5).

⁶ Here allege the name under which the soldier served.

⁷ Here allege the rank under which the soldier served.

⁸ Here allege the war in which the service was rendered.

⁹ Here state "enlisted," "volunteered," or "was drafted," as the case may be.

¹⁰ Here state the number of days or months of service rendered by the soldier; fourteen days being the shortest period for which bounty land is by law allowed, unless the soldier was actually engaged in a battle. If the claim is made for battle service, or for service at Plattsburg in 1814, or for service at the battle of Nickojack, or for service at the battle of Lewistown in the war of 1812, the blank should be so varied as to allege such service in addition to the allegation of term of service.

¹¹ Here insert the words "an honorable discharge," or "death," as the case may be.

BOUNTY LAND—Continued.

— day of —, A. D. —. — further states that the following is a full description of — said son at the time of his enlistment, viz :¹ _____

— further states that — said son² _____

— further states that — was married to³ —, the⁴ — of the soldier, at the city (or town) of —, in the county of —, and in the State of —, on the — day of —, A. D. —, by one⁵ —, who was a⁶ —, and that⁷ _____

and — further states that⁸ _____

and that — said son (the soldier) died at —, in the State of —, on the — day of —, A. D. —; and — further declares that the following have been the places of residence of the soldier until his death, and of this claimant since the soldier was discharged from the Army, viz :⁹ _____

That — did not aid or abet the rebellion but was opposed thereto and distinctly in favor of its suppression.

— makes this declaration for the purpose of obtaining the bounty-land (or the additional bounty-land) to which — may be entitled under the provisions of section 2418, Revised Statutes; and hereby appoints —, of —, — true and lawful attorney, to prosecute — claim; and — further declares that — has heretofore made — application for¹⁰ _____

and that — residence is No. —, — street, city (or town) of —, county of —, State of —, and that — post-office address is —.

Attest:

Also personally appeared —, aged — years, residing at No. —, — street, in —, and —, aged — years, residing at No. —, — street,

¹ Here let a full description of soldier follow, giving age, occupation, birthplace, height color of hair, eyes, and complexion, and any other particulars as to description.

² Here state whether the soldier had ever been married; and, if he had, give the name of his wife and the date of her death, or divorce from him; and if he left any children give the names of all of them, and the dates of their deaths.

³ Here insert the name of the person to whom claimant was married.

⁴ Here insert the word "father" or "mother" (as the case may be).

⁵ Here allege the name of the person who performed the marriage ceremony.

⁶ Here state the official character of the person who performed the ceremony; i. e., whether a minister of the gospel or a justice of the peace, &c.

⁷ If the claim is made by the mother, she should here give her name before marriage; and should follow with a statement giving the date and place of death of her husband. If the claim is made by the father, he should state here whether the soldier's mother is still living.

⁸ Here state whether the father or mother of soldier had been previously married; and if either had been, it should be stated whether the former consort was dead or divorced, giving dates.

⁹ Here state all the places of residence; if in a city, giving the street and number; and from and to what dates he resided at each place.

¹⁰ If any application for bounty land or pension has previously been made by any one state the fact here, giving the date, and number if possible, and the act of Congress under which the claim was made; and designating whether it was a claim for bounty-land or pension, and whether a warrant for the land or certificate for the pension was ever issued.

BOUNTY LAND—Continued.

in —, persons whom I certify to be respectable and entitled to credit, and who, being by me duly sworn, say that they have known the said — for — years and for — years, respectively; that they were present and saw — sign — name (or make — mark) to the foregoing declaration; that they have every reason to believe, from the appearance of said claimant and their acquaintance with —, that — is the identical person — represents — to be; and they further say that they are able to identify — as the person who was the¹ — of the identical² — who rendered the service alleged in the above application (in the company of Captain —, in the regiment of —, in the war of —) by the following-named facts and circumstances, viz:³ _____

and that they have no interest in the prosecution of this claim. _____

Sworn to and subscribed before me this — day of —, A. D. 18—; and I hereby certify that the contents of the above declaration, &c., were fully made known and explained to the applicant and witnesses before swearing, including the words —, erased, and the words —, added; and that I have no interest, direct or indirect, in the prosecution of this claim.

[L. S.] _____

[Official character.]

Declaration by brothers and sisters.

STATE OF —, COUNTY OF —, ss:

On this — day of —, A. D. one thousand eight hundred and —, personally appeared before me, —, the same being a court of record within and for the county and State aforesaid,⁴ _____

residents of —, county of —, in the State of —, aged respectively — years, who, being duly sworn according to law, make the following declaration in order to obtain the bounty-land provided by acts of Congress for brothers and sisters: That they are the only brothers and sisters, of the full or half blood, of⁵ —, who was the identical⁶ —, who served under the name of⁷ —, as⁸ — in the company commanded by Captain —, in the — regiment of —, commanded by —, in the war of⁹ —, and who¹⁰ — at —, on or about the — day of —, A. D. —, for the term of¹¹ —, and continued

¹ Here insert the word "father" or "mother" (as the case may be).

² Allege the name of soldier.

³ Here name all the facts and circumstances which enable the witnesses to swear, from a personal knowledge, that the claimant is the father or mother of the identical person who rendered the service alleged in the claim.

All services rendered by the soldier in the war for which claim is made, or in any other war, with the names of officers in each service, must be given in the application.

⁴ Here allege full name of all the applicants.

⁵ Give full name of soldier in each of the places marked (5).

⁶ Here give rank of soldier.

⁷ Here state the war in which soldier served.

⁸ Here insert the word "enlisted," "volunteered," or "was drafted," as the case may be.

⁹ Here state the length of time for which soldier enlisted.

BOUNTY LAND—Continued.

in actual service in said war for the term of¹ —, and whose services terminated by reason of² —, at —, on the — day of —, A. D. —. — further state that the following is a full description of said soldier at the time of his enlistment, viz:³ —

— further state that⁴ —, the said soldier, died at —, in the State of —, on the — day of —, A. D. —; that he left surviving him⁵ —

that the above named are the only surviving brothers and sisters of the said soldier, and that the dates and places of their own and the soldier's births were as follows, viz:

⁶ —, born —, 18—, at⁷ —.
 —, born —, 18—, at —.
 —, born —, 18—, at —.
 —, born —, 18—, at —.
 —, born —, 18—, at —.

— further state that the father of these applicants and of soldier was married under the name of —, at —, State of —, on the — day of —, A. D. —, to⁸ —. ⁹ —

That the said applicants have not aided or abetted the rebellion; that — make this declaration for the purpose of obtaining the bounty-land (or the additional bounty-land) to which they may be entitled under section 2418, Revised Statutes, and that — application has heretofore been made for¹⁰ —

and — hereby appoint —, of —, — true and lawful attorney, to prosecute — claim; and — further declare that the following have been the places

¹ Here state the number of days or months of service rendered by the soldier; fourteen days being the shortest period for which bounty-land is by law allowed, unless the soldier was actually engaged in a battle. If the claim is made for battle service, or for service at Plattsburgh in 1814, or for service at the battle of Nickojack, or for service at the battle of Lewistown in the war of 1812, the blank should be so varied as to allege such service in addition to the allegation of term of service.

² Here insert the words "an honorable discharge," or "death," as the case may be.

³ Here let a full description of the soldier follow, giving age, occupation, birthplace, height, color of hair, eyes, and complexion, and any other particulars as to description.

⁴ Give full name of soldier.

⁵ Here state whether the soldier left surviving him a widow, minor child or children, a father or mother, and if any one of said relatives survived him, state when and where each one died; and if the soldier had been married, give the date of the death of his wife, or of her divorce from him.

⁶ Here give the name of each of the brothers and sisters, and also of the soldier.

⁷ Place of birth should always be given.

⁸ Here give full maiden name of the mother of soldier and applicants.

⁹ If either the father or mother of soldier had been more than once married, state here the name of the former wife or husband, giving the date of marriage, and of death of the former wife or husband; also give here the names and dates of death of other brothers and sisters of full or half blood of the soldier, who may have died prior to the making of this application.

¹⁰ If any application for bounty-land or pension has previously been made by any one state the fact here, giving the date, and number if possible, and the act of Congress under which the claim was made; and designating whether it was a claim for bounty-land or pension, and whether a warrant for the land or certificate for the pension was ever issued.

BOUNTY LAND—Continued.

of residence of the said soldier, and of these applicants, from the date of the soldier's discharge from the Army to the present time, viz:¹ _____

that the residences of the said brothers and sisters are as follows, viz:² _____

and they further declare that they desire that the warrant when issued shall be sent to _____, whose post-office address is _____.

Attest:

Also personally appeared _____, aged _____ years, residing at No. _____ street, in _____, and _____, aged _____ years, residing at No. _____ street, in _____, persons whom I certify to be respectable and entitled to credit, and who, being by me duly sworn, say that they were present and saw _____, _____, _____, _____, the claimants, sign their names (or make their marks) to the foregoing declaration, and they say that they have known the said claimants for _____ years, and for _____ years, respectively; and that the said³

brothers and sisters of⁴ _____, for _____ years and _____ years, respectively; and that they have every reason to believe, from the appearance of said claimants, and their acquaintance with them, that they are the identical persons they represent themselves to be; and that the said claimants are the brothers and sisters of the identical⁵ _____, who rendered the service alleged in the above application (in the company of Captain _____, in the regiment of _____, in the war of _____); and they further declare that they are able to so swear as to the identity of the said brothers and sisters from the following-named facts and circumstances, viz:⁶ _____

and that they have no interest in the claim.

¹ Here state all the places of residence of the soldier from the time of his discharge to his death, and of the applicants from the first mentioned time to the date of this application; stating from and to what dates the residence was at each place.

² Here should be given the residence of each one of the applicants; the name of the town or city (if in a city, the street and number to be given), and the county or State.

³ Here insert the full names of all the applicants; the brothers and sisters.

⁴ Give full name of soldier in each of the places marked (2).

⁵ Here name all the facts and circumstances which enable the witnesses to swear, from a personal knowledge, that the parties for whom the claim is made are the brothers and sisters of the identical soldier who rendered the service alleged in the application.

All services rendered by the soldier in the war for which claim is made, or in any other war, with the names of officers in each service, must be given in the application.

If the claimants are not all residents of the same section of the country, they can make separate applications, each using this form, and naming all the other brothers and sisters, giving their residences. Or, they may authorize one of their number to make application on behalf of all; such authority must be in legal form, duly executed and witnessed, and filed in this office.

BOUNTY LAND—Continued.

Sworn to and subscribed before me this — day —, A. D. 18—; and I hereby certify that the contents of the above declaration, &c., were fully made known and explained to the applicants and witnesses before swearing, including the words —, erased, and the words —, added; and that I have no interest, direct or indirect, in the prosecution of this claim.

[L. S.]

_____,
_____,
[Official character.]

Application for reissue of warrants.

STATE OF —, COUNTY OF —, ss :

On this — day of —, A. D. —, before me, —, the same being a court of record within and for the county and State aforesaid, personally appeared —, aged — years, a resident of —, in the county of —, in the State of —, who, being duly sworn according to law, declares that he is the owner of bounty-land warrant No.¹ — for² — acres, which was issued on the — day of —, A. D. —, in the name of³ —, who served as a member of⁴ — in the war of⁵ —; that this affiant became the owner of said warrant⁶

which warrant⁷

that he has not sold, assigned, or voluntarily parted with h right to the same; that

he hereby makes application for a duplicate warrant, under the provisions of sections 2441 and 2442, Revised Statutes; and that he hereby appoints —, of —, h true and lawful attorney to prosecute h claim. H post-office address is —.

[Signature of applicant.]

Attest :

(If applicant signs by mark two persons who write must sign here.)

Also personally appeared —, aged — years, residing at No. — street, in —, and —, aged — years, residing at No. — street, in —, persons whom I certify to be respectable and entitled to credit, and who, being by me duly sworn, say that they have known the said — for —

¹ Here give the number of the warrant.

² Here give the number of acres of land for which the warrant called.

³ Here give the name of the person to whom the warrant was issued; and if the warrant was issued to the widow or other heir of the soldier, the name of the warrantee should be followed by a statement of the relationship and the name of the soldier; as, for instance, "widow of John Smith."

⁴ Here give the name of the company and regiment in which, or, if in the Navy, the name of the vessel on which the service was rendered.

⁵ Here state the war in which the service was rendered.

⁶ Here state how the applicant became the owner of the warrant, viz: "as the warrantee to whom said warrant was originally issued," or "by purchase," giving the name and residence of the party from whom the purchase was made, and the names and residences of the several parties through whom the title of the warrant descended to the present applicant from the warrantee.

⁷ Here state what has become of the warrant, whether lost or destroyed, detailing the circumstances; and, if the applicant became the owner of the warrant by purchase or assignment, he must make affidavit that he has no knowledge or information of any irregularity in the issue of said warrant or its transfer, or of a caveat's having been filed in the General Land Office against the issue of a patent thereon; and should set forth minutely the circumstances attending the transfer.

BOUNTY LAND—Continued.

years and — years, respectively; that they were present and saw h sign h name (or make h mark) to the foregoing application; that they have every reason to believe, from the appearance and statements of said applicant and their acquaintance with h, that he is the identical person he represents h self to be; and that they have no interest in the prosecution of this claim.

(1) ———.

(2) ———.

[Signatures of identifying witnesses.]

Attest:

———
 ———

(If either witness signs by mark two persons who write must sign here.)

Sworn to and subscribed before me this — day of —, A. D. —; and I hereby certify that the contents of the above application, &c., were fully made known and explained to the applicant and witnesses before swearing, including the words —, erased, and the words —, added; and that I have no interest, direct or indirect, in the prosecution of this claim.

[L. S.]

———
 ———

[Official character.]

General form of certificate of official character of magistrate.

1 ———, [L. S.]

[Official signature of magistrate.]

STATE OF —, COUNTY OF —, ss:

I, —, clerk of the — of the county and State aforesaid, do hereby certify that it appears of record in my office, pursuant to law, that — is a — in and for said —, duly qualified to act as such; that his term of office commenced on the — day of —, in the year 18—, and will expire on the — day of —, in the year 18—, and that his signature, above written, is genuine.

Given under my hand and the seal of the said —, at —, on this — day of —, in the year of our Lord 18—.

[L. S.]

———, Clerk.

52. GRATUITIES, ACTS IN NATURE OF.*See* PARAGRAPH 1 THIS TITLE.**53. GUARDIANS.***See* PARAGRAPH 33, 76, AND 141 THIS TITLE AND TITLE GUARDIANS.**54. HALF-PAY PENSION, IN LIEU OF BOUNTY-LAND.****DECISION OF THE SECRETARY OF THE INTERIOR.**

(1) Title to bounty-land is extinguished by allowance of five years' half pay under act of April 16, 1816.

[NOTE.—No claims are now being allowed under the act referred to, it having expired by limitation.]

Smith, C. B., Secretary. Jan. 13, 1862. Flerer, Charles. O. W. Rejected. No. 22,811.
 Vol. 1, p. 32.

¹ The magistrate whose official character is to be certified should sign his name in the place marked.

BOUNTY LAND—Continued.**55. HEIRS OR REPRESENTATIVES OF DECEASED WARRANTEES OR CLAIMANTS.**

See PARAGRAPHS 51, 111, AND 137 THIS TITLE.

56. HONORABLE DISCHARGE.

See PARAGRAPH 37 THIS TITLE.

57. IDENTITY.**DECISION OF THE SECRETARY OF THE INTERIOR.**

(1) Identity must be shown where service was rendered under an alias.

Schurz, C., Secretary. April 26, 1880. R. L. Wt. No. 114,675-160-1855. Gador, Etienne, alias Brown, Joseph S. Vol. 7, p. 307. O. W. and N. Vol. 2, p. 282.

See PARAGRAPH 12, TITLE SERVICE PENSION, WAR OF 1812; ORDER NO. 38, PARAGRAPH 38, THIS TITLE, AND PARAGRAPH 51 THIS TITLE.

58. INDIANS AND NEGROES.**Section 2434, Revised Statutes.**

The provisions of all the bounty land laws shall be extended to Indians, in the same manner and to the same extent as to white persons.

8 March, 1855, c. 207, s. 7, v. 10, p. 702.

DECISIONS OF THE ATTORNEY-GENERAL AND SECRETARY OF THE INTERIOR.

(1) Free negroes enlisted in the public service are entitled to bounty-land and pensions.

Wirt, William, Attorney-General. March 27, 1828. Decisions of Attorneys-General, vol. 1, p. 602. M. and M., p. 355.

(2.) Under act of September 28, 1850 [section 2418, R. S], Indians who were mustered and performed the duties of soldiers are entitled to bounty-land.

Stuart, A. H. H., Secretary. Feb. 4, 1851. (No claim.) O. W. and N. Vol. 4, p. 44.

See PARAGRAPH 13, TITLE, SERVICE PENSIONS WAR OF 1812.

(3) Indians are not entitled to the benefits of the act of September 28, 1850.

[Section 2418, R. S.]

McClelland, R., Secretary. May 31, 1853. (No claim.) O. W. and N. Vol. 4, p. 63.

ORDER THE COMMISSIONER OF PENSIONS.

ORDER No. 17. (No date.)

Applications for pension and bounty-lands by Indians sustaining tribal relations, or their heirs, will be submitted, before action thereon, to the Commissioner of Indian Affairs. Certificates and warrants therefor will be transmitted through the said Commissioner. Agents

BOUNTY LAND—Continued.

will pay all amounts due, less the fees allowed by the Commissioner, and the fees authorized to be paid by Office of Indian Affairs to the attorneys.

No date; old No. 62.

59. INDIAN STREAM WAR.

See PARAGRAPH 60 THIS TITLE.

60. INDIAN WARS AND LOCAL DISTURBANCES.

For law see Paragraph 115 this title.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

(1) *Apache, Navajo, and Rogue River wars.*—Service in Rogue River and Navajo and Apache wars gives title.

It is evident that Congress, in the bounty-land laws intended to provide for all cases where the circumstances actually constituted a "war," in which life was imminently imperiled.

McClelland, R., Secretary. Oct. 28, 1856. B. L. Wt. No. 49,347-160-1855. Hessian, Michael. B. L. Wt. No. 49,349-160-1855. O'Brien, William. B. L. Wt. No. 64,380-160-1855. Dempsey James, Jr., James. O. W. and N. Vol. 4, pp. 80, 81.

See (2) and (9) of this paragraph.

(2) *Apache, Navajo, and Utah wars.*—The disturbance in new Mexico, in 1855, by the Utah, Apache, and Navajo Indians, is not regarded as constituting a state of war.

Chandler, Z., Secretary. Oct. 24, 1876. B. L. No. 332,562. Brown, William H. O. W. and N. Vol. 5, p. 12.

[NOTE.—The Utah, Apache, and Navajo Indian disturbances in New Mexico and Texas from 1850 to 1855, having been recognized by the War Department as a state of war, services rendered within the limits of time and territory specified by the Adjutant-General, United States Army, are held to give title. *See* B. L. Wt. No. 114,258-160-1855. Blair, David. O. W. and N. Vol. 1, p. 70.]

(3) *Aroostook war.*—Those persons engaged in service which was strictly military in its character, during the Northeastern or Aroostook disturbances (1839), are entitled to land; those employed in a civil capacity are not entitled.

Thompson, J., Secretary. June 17, 1859. B. L. No. 298,771. Bartlett, Thomas. O. W. and N. Vol. 4, pp. 92-97.

(4) *Black Hawk war.*—A soldier, not having been actually at the seat of the Black Hawk war, or directly connected with its operations, is not entitled.

Stuart, A. H. H., Secretary. June 20, 1851. B. L. Rejected No. 205,189-1855. Elliott, George W., by guardian, Puckett, C. G. O. W. and N. Vol. 4, pp. 51, 52.

(5) *Black Hawk war.*—Not having been mustered for service in, engaged in, or paid by the United States for service in the "Black Hawk war," the soldier is not entitled. Service must be *in*, not simply *during*, a war.

McClelland, R., Secretary. Oct. 6, 1855. B. L. Rejected No. 24,532-1855. Demolive, D. Vol. 4, p. 11. O. W. and N. Vol. 4, p. 73.

BOUNTY LAND—Continued.

(6) *Burr's insurrection.*—By direction of the President of the United States, Maj. Gen. H. Dearborn, U. S. A., in a letter dated November 26, 1806, requested the governor of Kentucky to use the utmost vigilance to prevent any military enterprise against any foreign state at peace with the United States, and particularly against the Territory of Spain, and for this purpose to select a suitable general field officer to be at Louisville, with such militia as might be thought necessary; the militia, while in service, to receive the pay and rations allowed by law.

In compliance with this request, the Governor of Kentucky directed Brig. Gen. Joseph Winlock, with militia from his command, not to exceed two hundred privates, to repair to Louisville and remain on duty there for thirty days.

No record was found of the service of the militia called out at this time, either in the archives of the General Government or of the State of Kentucky.

The only evidence of service produced was a discharge certificate signed by J. Winlock, Brigadier-General commanding, showing service in Capt. William Patterson's company, of Kentucky militia, from December 25, 1806, to January 24, 1807.

The discharge certificate was held to be sufficient evidence of the service, and the claimant was declared to be entitled to bounty-land, thus recognizing the service as coming within the requirements of the bounty-land laws.

Usher, J. P., Secretary. Jan. 14, 1864. B. L. Wt. No. 102,408-160-1855. Blankenbaker, Lewis. Vol. 1, p. 28.

[NOTE.—This decision is reversed as to title under act of March 3, 1855, section 2425, *et seq.*, R. S., but holds good as to title under act of March 22, 1852, section 2420, R. S.]

See PARAGRAPH 105 THIS TITLE.

(7) *Cherokee removal.*—I. Troops employed in removing the Cherokee Indians from North Carolina in 1838 are not entitled to the benefits of the act of September 28, 1850 [section 2418, R. S.], unless called into service for the express purpose of suppressing the hostilities of the Indians or actively engaged in such duties.

Instructions: Graham, Will. A., Acting Secretary. Oct. 15, 1850. O. W. and N. Vol. 4, p. 38.

Instructions: Stuart, A. H. H., Secretary. Dec. 28, 1850. O. W. and N. Vol. 4, p. 40, and March 19, 1851. O. W. and N. Vol. 4, p. 50.

II. Also not entitled to benefits of the act of March 3, 1855.

McClelland, R., Secretary. Sept. 29, 1855. O. W. and N. Vol. 4, p. 73.

See RULING No. — THIS PARAGRAPH.

(8) *Creek disturbances.*—Non-commissioned officers, privates, &c., who served in the "Creek disturbances," between May 5 and September 30, 1836, are entitled to bounty-land under the act of September 28, 1850.

[Section 2418, R. S.]

Stuart, A. H. H., Secretary. Feb. 26, 1851. M. and M., p. 566. (No claim.)

BOUNTY LAND—Continued.

(9) *Navajo disturbances*.—Title to bounty-land is acquired in Navajo disturbances, 1850, by persons who have served fourteen days as volunteers, subject to military orders, "with the armed forces of the United States," even if those forces were prevented from joining, the expedition having been a recognized necessity, if there existed such a state of hostilities as constituted "battle service."

[See act of May 14, 1856, section 5, now section 2425, and paragraph 7 of section 2426, R. S.; see also (1) and (2) this paragraph.]

Thompson, J., Secretary. Aug. 31, 1858. B. L. Wt. No. 82,917-160-1855. Morales, José. O. W. and N. Vol. 4, pp. 88, 89.

(10) *New Mexico, citizens of*, engaged in suppressing Indian hostilities in that Territory prior to its cession to the United States are not entitled to bounty-land, as service was not rendered in a war in which the United States was engaged.

Smith, C. B., Secretary. Oct. 24, 1862. (No particular claim.) O. W. and N. Vol. 2, p. 121.

(11) *Patriot war*.—Service in the "Patriot War," so called, or northern frontier disturbances of 1838-1839, does not give title under existing law.

McClelland, R., Secretary. Nov. 13, 1855. (No claim.) O. W. and N. Vol. 4, pp. 74, 75.

(12) *Patriot war*.—Vermont militia are not entitled to bounty-land for services in northern frontier disturbances or "Patriot war" of 1838-1839, growing out of an attempted Canadian rebellion against the British Government. The service was not in a war in which the United States was engaged, but was for the purpose of preserving the neutrality of the United States. The allowance of certain claims does not bind the Government to similar action in cases based upon the same or like state of facts.

Schurz, C., Secretary. Feb. 12, 1880. B. L. No. 332,501. Wilson, James S. Vol. 7, p. 212.

(13) *Rogue River war*.—(See (1) this paragraph.)

(14) The "*Texan War*" was not a war in which the United States was engaged, and therefore gives no title to bounty land. The republic of Texas, in its independent condition, made provision for the soldiers engaged in its service.

McClelland, R., Secretary. Jan. 21, 1856. McGee, Patrick, widow of. (No claim.) O. W. and N. Vol. 4, pp. 77, 78.

(15) *Texas frontier disturbances*.—A skirmish or battle with the Indians or others not in a regularly recognized war does not give title, under act of March 3, 1855, now section 2425 *et seq.*, Revised Statutes. Service in the Texas frontier in 1852 and 1853 was in nature of police duty, and was not a state of war.

Schurz, C., Secretary. June 30, 1879. B. L. No. 331,877. Trimmer, Martin. O. W. and N. Vol. 2, p. 153. Nullified in part. See (1) and note to (2) of this paragraph.

(16) The "*Toledo war*," so called, or disturbance between Michigan and Ohio in 1835-36, does not give title.

McClelland, R., Secretary. May 8, 1855. (No claim.) O. W. and N. Vol. 4, pp. 69, 70.

BOUNTY LAND—Continued.

(17) *Utah war*.—See (2) this paragraph.

(18) The "*Winnebago disturbances*" in 1827 did not constitute a war, and therefore the regular soldiers employed therein are not entitled under the act of September 28, 1850.

[Section 2418, R. S.]

McClelland, R., Secretary. May 23, 1853. (No claim.) O. W. and N. Vol. 4, p. 63.

RULINGS OF THE COMMISSIONER OF PENSIONS.

RULING No. —. *April 13, 1885.*

Cherokee removal.—Volunteers or militia called into service by virtue of an act of Congress, but rendering no service, except to report at rendezvous and receive dismissal, being in excess of the quota called for, are not entitled.

B. L. No. 336,041. Green, James. B. L. No. 336,062. Green, Joab. O. W. and N. Vol. 8, p. 354.

[Note.—This ruling was made in the case of a company of Tennessee volunteers, called out in 1836, under act of May 23, of that year, during the disturbance attending the removal of the Cherokee Indians.]

RULING. (No number, no date.)

Indian Stream war.—The militia were called into service in Coos County, New Hampshire, in the "Indian Stream war," so called, or disturbance between the State of New Hampshire and Canada, from November, 1835, to February, 1836, in regard to disputed territory. Land warrants have been issued for such service.

See B. L. Wt. No. 49,532-120-1855. Minor, Isaac, and B. L. Wt. No. 84,135-120-1855. Blakelee, Linna.

[Such service not recognized under present ruling. See (10), (11), (12), and (14) this paragraph.]

61. INNOCENT PURCHASERS.

See PARAGRAPHS 126, 129 AND 132 THIS TITLE.

62. INSTRUCTIONS.

See PARAGRAPH 51 THIS TITLE.

63. ISSUE OF LAND WARRANTS.

See PARAGRAPHS 129 AND 133 THIS TITLE.

64. KING'S MOUNTAIN.

See PARAGRAPH 115 OF THIS TITLE.

65. LAND WARRANTS.

See PARAGRAPHS 68, 115 AND 126 TO 139 INCLUSIVE THIS TITLE.

66. LEWISTOWN, ATTACK ON.

See PARAGRAPH 115 THIS TITLE.

BOUNTY LAND—Continued.**67. LOCAL DISTURBANCES.**

See PARAGRAPH 60 THIS TITLE.

68. LOCATION OF LAND WARRANTS.**Section 2415, Revised Statutes.**

The warrants which have been or may hereafter be issued in pursuance of law may be located according to the legal subdivisions of the public lands in one body upon any lands of the United States subject to private entry at the time of such location at the minimum price. When such warrant is located on lands which are subject to entry at a greater minimum than one dollar and twenty-five cents per acre, the locator shall pay to the United States in cash the difference between the value of such warrants at one dollar and twenty-five cents per acre and the tract of land located on. But where such tract is rated at one dollar and twenty-five cents per acre, and does not exceed the area specified in the warrant, it must be taken in full satisfaction thereof.

22 March, 1852, c. 19, s. 1, v. 10, p. 3. See ordinance 20 May, 1785; act 15 Apr., 1806, secs. 1 and 2 and numerous subsequent continuing acts; act 6 May, 1812, sec. 3.

Section 2416, Revised Statutes.

In all cases of warrants for bounty lands, issued by virtue of an act approved July twenty-seven, one thousand eight hundred and forty-two, and of two acts approved January twenty-seven, one thousand eight hundred and thirty-five, therein and thereby revised, and of two acts to the same intent, respectively, approved June twenty-six, eighteen hundred and forty-eight, and February eight, eighteen hundred and fifty-four, for military services in the Revolutionary war, or in the war of eighteen hundred and twelve with Great Britain, which remained unsatisfied on the second day of July, eighteen hundred and sixty-four, it is lawful for the person in whose name such warrant issued, his heirs or legal representatives, to enter in quarter sections, at the proper local land office in any of the States or Territories, the quantity of the public lands subject to private entry which he is entitled to under such warrant.

2 July, 1864, c. 226, s. 2, v. 13, p. 379.

Section 2417, Revised Statutes.

All warrants for bounty lands referred to in the preceding section may be located at any time in conformity with the general laws in force at the time of such location.

2 July, 1864, c. 226, s. 2, v. 13, p. 379.

Section 2437, Revised Statutes.

It shall be the duty of the Commissioner of the General Land Office, under such regulations as may be prescribed by the Secretary of the

BOUNTY LAND—Continued.

Interior, to cause to be located, free of expense, any warrant which the holder may transmit to the General Land Office for that purpose, in such State or land district as the holder or warrantee may designate, and upon good farming land, so far as the same can be ascertained from the maps, plats, and field notes of the surveyor, or from any other information in the possession of the local office, and, upon the location being made, the Secretary shall cause a patent to be transmitted to such warrantee or holder.

28 Sept., 1850, c. 85, s. 4, v. 9, p. 521; ordinance 20 May, 1785; act 20 April, 1806; secs. 1, 2, and various continuing acts; act 6 May, 1812; secs. 2, 3.

Section 2446, Revised Statutes.

Where an actual settler on the public lands has sought, or hereafter attempts, to locate the land settled on and improved by him, with a military bounty-land warrant, and where, from any cause, an error has occurred in making such location, he is authorized to relinquish the land so erroneously located, and to locate such warrant upon the land so settled upon and improved by him, if the same then be vacant, and if not, upon any other vacant land, on making proof of those facts to the satisfaction of the land officers, according to such rules and regulations as may be prescribed by the Commissioner of the General Land Office, and subject to his final adjudication.

8 March, 1855, c. 147, s. 1, v. 10, p. 256.

See PARAGRAPHS 51, 129 AND 133 THIS TITLE.

69. LOST WARRANTS.

See PARAGRAPH 129 THIS TITLE.

70. LOYALTY.

See PARAGRAPH 38 THIS TITLE.

71. MARINE CORPS.

Act of Congress approved August 10, 1848.

[NOTE.—Not re-enacted in the Revised Statutes.]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the officers, non-commissioned officers, privates, and musicians of the Marine Corps, who have served with the Army in the war with Mexico, and also the artificers and laborers of the Ordnance Corps serving in said war, be placed, in all respects as to bounty-land and other remuneration, in addition to ordinary pay, on a footing with the officers, non-commissioned officers, privates, and musicians of the Army: Provided, That this remuneration shall be in lieu of prize-money and all other extra allowances.

Vol. 3, p. 340, Statutes at Large.

(For further laws, see paragraph 115 this title.)

BOUNTY LAND—Continued.**DECISIONS OF THE SECRETARY OF THE INTERIOR.**

(1) Members of the Marine Corps, whether serving on land or on board ship, on the Mexican coast, and members of the Ordnance Corps who served with the Army in Mexico, acquired title under the joint resolution of August 10, 1848, if they relinquish the right to receive, or if, having received, they make restitution of prize money and other naval allowances.

Ewing, T., Secretary. July 8, 1850. B. L. Wt. No. 70,666-160-1847. McKevitt, Henry. M. and M., pp. 556-558.

See *Instructions*: Ewing, T., Secretary. Jan. 5, 1850. O. W. and N. Vol. 4, p. 7; see also decision by Johnson, Reverdy, Attorney-General. Sept. 17, 1849. *Decisions of Attorneys-General*, vol. 5, p. 155. M. and M., pp. 496-498.

(2) Any portion of the Marine Corps, including officers, in the several wars referred to in the act of 1850 [section 2418, R. S.] embodied with the Army in the field, and which performed service as a part of the Army, is entitled.

Stuart, A. H. H., Secretary. Oct. 10, 1850. (No claim.) O. W. and N. Vol. 4, pp. 34, 35.

Stuart, A. H. H., Secretary. Oct. 12, 1850. (No claim.) M. and M., p. 562.

Stuart, A. H. H., Secretary. Nov. 26, 1852. B. L. Wt. No. 22,109-160-1850. Tyler, Henry B. O. W. and N. Vol. 4, pp. 60-63.

72. MARRIAGE.

See PARAGRAPH 141 THIS TITLE; *see also* TITLE MARRIAGE.

73. MECHANICS AND LABORERS.

See PARAGRAPH 24 THIS TITLE.

74. MEXICAN WAR.

(*For laws, see paragraph 115 this title.*)

DECISIONS OF THE SECRETARY OF THE INTERIOR.

(1) Commenced April 24, 1846, the date of the letter of the Mexican general to General Taylor, in which he gave notice that he considered hostilities commenced.

Ewing, T., Secretary. June 10, 1830. O. W. and N. Vol. 4, p. 23.

(2) Terminated May 30, 1848, the date of the exchange of ratifications.

McClelland, R., Secretary. Sept. 16, 1853. B. L. Wt. No. 76,896-160-1855. Salmon, Michael. O. W. and N. Vol. 4, p. 64.

(*See ruling paragraph 45 this title; paragraphs 1, 15, 24, 25, 37, 47, 71, 75, 80, 85, 97, 101, 104, 106, 115, and 135 this title.*)

75. MILITIA AND VOLUNTEERS.**Section 2420, Revised Statutes.**

Where the militia, or volunteers, or State troops of any State or Territory, subsequent to the eighteenth day of June, eighteen hundred and

BOUNTY LAND—Continued.

twelve, and prior to March twenty-second, eighteen hundred and fifty-two, were called into service, the officers and soldiers thereof shall be entitled to all the benefits of section two thousand four hundred and eighteen upon proof of length of service as therein required.

22 March, 1852, c. 19, s. 4, v. 10, p. 4.

Section 2426, Revised Statutes.

The classes of persons embraced as beneficiaries under the preceding section are as follows, namely :

* * * * *

Militia, volunteers, and State troops of any State or Territory called into military service and regularly mustered therein, and whose services have been paid by the United States.

3 March, 1855, c. 207, s. 1, v. 10, p. 701.

* * * * *

Volunteers who served with the armed forces of the United States in any of the wars mentioned, subject to military orders, whether regularly mustered into the service of the United States or not.

14 May, 1856, Sec. 5.

(For further laws see paragraph 115 this title.)

DECISIONS OF THE SECRETARY OF THE INTERIOR.

(1) Troops called out by the President must be mustered into the service of the United States, in order to give them title.

Stuart, A. H. H., Secretary. Feb. 26, 1851. (No claim.) M. and M., p. 566.

(2) Soldiers for the Mexican war, mustered into service and discharged the service by State officers, under authority from the War Department, if such action is adopted or acquiesced in by the proper officers of the General Government, are entitled.

Stuart, A. H. H., Secretary. June 1, 1852 B. L. Wt. No. 76,700-160-1847. Rhinehart, Perry. O. W. and N. Vol. 4, p. 178; and same Secretary, Sept. 21, 1852, in same case, O. W. and N. Vol. 4, pp. 59, 60. Also decision by Crittenden, J. J., Attorney-General, in same case, Sept. 2, 1852. Decisions of Attorneys-General, vol. 5, p. 617.

(3) Persons engaged in military service in the employ of any State between June 18, 1812, and March 22, 1852, whose services have been paid for by the United States, are entitled in proportion only to the time thus paid for.

[NOTE.—This applies chiefly to cases under the act of March 22, 1852, now section 2420, R. S.]
McClelland, R., Secretary. Jan. 18, 1854. (No claim.) O. W. and N. Vol. 4, p. 69.

(4) Militia or volunteers serving under the general command of the United States, whether in time of war or not, and whether under the

BOUNTY LAND—Continued.

immediate authority of the United States, or of a State or Territory, if paid by the United States are entitled.

[*NOTE*.—This decision was intended to apply to claims under the act of March 8, 1855, section 2425 *et seq.*, R. S., and was rendered in claims based upon service in the Cherokee Indian removal of 1836-1838.

It has been substantially reversed by decisions of later date, see (7) paragraph 60 this title, and ruling of Commissioner of Pensions relating to Cherokee removal, paragraph 60 this title, as well as by the construction given to the law in its re-enactment in the Revised Statutes, section 2425, *et seq.*, in which service in a war is required. The volunteers and militia in service in time of peace, under the present practice of the office, have no title except under the provisions of the act of March 22, 1852. [Section 2420, R. S.]

McClelland, R., Secretary. Dec. 18, 1855. (No claim.) O. W. and N. Vol. 4, pp. 75, 76. See also Cushing, Caleb, Attorney-General. Dec. 14, 1855. Decisions of Attorneys-General. Vol. 7, pp. 606, 610.

(5) In the invasion of Plattsburg, service must have been rendered in companies called out by competent authority, and must have been paid for by the United States to give title.

Thompson, J., Secretary. June 25, 1857. B. L. Wt. No. 70,578-160-1855. Dunham, Lot E. O. W. and N. Vol. 4, pp. 84, 85. [*NOTE*.—This rule has not been applied to those volunteers who come under the provisions of paragraph (2), section 2427, R. S.]

See PARAGRAPH 115 THIS TITLE; *see also* SERVICE PENSION, WAR OF 1812; *also next*.

(6) Bounty-land warrants for service at invasion of Plattsburg are properly allowed on evidence from an original roll of a company, on file in the office of the secretary of state of Vermont, which was authenticated by affidavits of officers and privates who served therein.

Schurz, C., Secretary. April 12, 1879. 1812, Service Pension. App. No. 30,213. Owens, Harriet M. O. W. and N. Vol. 2, p. 103.

(7) A claim for bounty-land can be valid only on one of the following conditions: (1) That soldier was regularly mustered into the United States service; (2) That his services were paid for by the United States; or (3) That he served with the armed forces of the United States, subject to the military orders of a United States officer.

Schurz, C., Secretary. June 6, 1878. B. L. No. 828,157. Weed, Betsey. Vol. 5, p. 473.

See PARAGRAPH 60 THIS TITLE.

76. MINOR CHILDREN.**Section 2430, Revised Statutes.**

Persons within the age of twenty-one years on the third day of March, eighteen hundred and fifty-five, shall be considered minors within the intent of section twenty-four hundred and twenty-eight.

3 March, 1855, c. 207, s. 2, v. 10, p. 702.

(For further laws see paragraph 115 this title; paragraph 141 this title.)

DECISION OF ATTORNEY-GENERAL.

"Minority does not create incapacity to take bounty-land any more than bounty in money or pay."

Rush, Hon. Richard, Attorney-General. August 1, 1815. Decisions of Attorneys-General, vol. 1, p. 124.

BOUNTY LAND—Continued.**DECISIONS OF THE SECRETARY OF THE INTERIOR.**

(1) To obtain title as minors, children must have been minors at the date of the passage of the law.

[NOTE.—Under act of 1850, section 2418, R. S.]

Graham, W. A., Acting Secretary. Oct. 15, 1850. O. W. and N. Vol. 4, p. 36. (No claim.)

(2) Guardians of minors should be appointed in the county and State where the children reside.

Graham, W. A., Acting Secretary. Oct. 15, 1850. M. and M., pp. 562, 563. (No claim.)

(3) Under act of September 28, 1850 [section 2418, R. S.], a second marriage deprives a widow of title, which then goes to minor children, unless she were a widow at the dates of the passage of the act and her application.

Graham, W. A., Acting Secretary. Oct. 26, 1850. M. and M., p. 563. (No claim.)

[NOTE.—See paragraph 141 this title.]

(4) Claim of a child of a soldier was rejected on the ground that claimant was not a minor on the 3d day of March, 1855, and, therefore, not entitled under act of that date. Appeal was taken asking consideration of case under earlier bounty-land laws: *Held*, that the benefits of the bounty-land acts of December 24, 1811; January 10, 1812; February 6, 1812; January 10, 1813, and December 10, 1814, were restricted by section 1, of the act of April 16, 1816, to those who should prove title before March 1, 1818, and that the date for the completion of claims under those laws was extended from time to time until the 26th day of June, 1858, when they expired by limitation.

Schurz, C., Secretary. June 18, 1877. B. L. No. 331,635. Moore, Julia, daughter of Mara, William. O. W. and N. Vol. 1, p. 8.

(5) Child of soldier, if more than twenty-one years of age on the 3d day of March, 1855, has no title to bounty-land under any law.

Kirkwood, S. J., Secretary. June 27, 1881. B. L. No. 334,837. Shreve, Mary I. Vol. 8, p. 323.

See MINORS, ALSO PARAGRAPH 51 THIS TITLE.

77. MORTGAGES, SALES, ETC., OF WARRANTS.

See PARAGRAPH 136 THIS TITLE.

78. MOTHERS AND FATHERS.

See PARAGRAPH 47 THIS TITLE.

79. NAVAJO WAR.

See PARAGRAPH 60 THIS TITLE.

80. NAVY.

Section 2426, Revised Statutes.

The classes of persons embraced as beneficiaries under the preceding section are as follows, namely:

* * * * *

BOUNTY LAND—Continued.

Commissioned and non-commissioned officers, seamen, ordinary seamen, flotilla-men, marines, clerks, and landsmen in the Navy.

* * *
3 March, 1855, c. 207, s. 1, v. 10, p. 701.

Officers and soldiers of the Revolutionary war, and marines, seamen, and other persons in the naval service of the United States during that war.

* * *
3 March, 1855, c. 207, s. 8, v. 10, p. 701; 14 May, 1855, c. 28, s. 4, v. 11, p. 8.

DECISION OF THE SECRETARY OF THE INTERIOR.

(1) Service in a United States ship not engaged in the Mexican war (or in any other war) gives no title.

McClelland, R., Secretary. Nov. 23, 1855. B. L. Wt. No. 99,323-100-1855. Tarrett, Colville. O. W. and N. Vol. 1, p. 19.

See (6) PARAGRAPH 15 THIS TITLE. *See* ARMY AND NAVY ROLLS AND RECORDS, WHERE FOUND.

81. NEGROES AND INDIANS.

See PARAGRAPH 58 THIS TITLE.

82. NEW MEXICO.

See PARAGRAPH 60 THIS TITLE.

83. NICKOJACK, BATTLE OF.

See PARAGRAPH 115 THIS TITLE.

84. NOTIFICATION OF ALLOWANCE OF WARRANT.

Section 4748, Revised Statutes.

* * * and on the issuing of a certificate of pension or of a bounty land warrant, he [Commissioner of Pensions] shall forthwith notify the claimant or applicant, and also the agent or attorney in the case, if there be one, that such certificate has been issued, or allowance made, and the date and amount thereof.

3 March, 1873, c. 234, s. 22, v. 17, p. 573.

85. ORDNANCE CORPS.

Act of Congress approved July 10, 1848.

[NOTE.—Not re-enacted in the Revised Statutes.]

SEC. 2. *And be it further enacted*, That those enlisted men of the ordnance department who have served, or may serve, in Mexico during the war with that country, shall be entitled to, and shall receive, the same bounty in land as is or may be allowed by law to other regular troops

BOUNTY LAND—Continued.

in the service of the United States, and under like limitations and restrictions.

Vol. 9, p. 246, Statutes at Large.

(For further law and decision of the Secretary of the Interior, see paragraph 71 this title.)

86. PACKERS.

See PARAGRAPH 24 THIS TITLE.

87. PAROL EVIDENCE.

See PARAGRAPH 45 THIS TITLE.

88. PATENT FOR LAND.

Section 2439, Revised Statutes.

When a soldier of the Regular Army, who has obtained a military land-warrant, loses the same, or such warrant is destroyed by accident, he shall, upon proof thereof to the satisfaction of the Secretary of the Interior, be entitled to a patent in like manner as if the warrant was produced.

27 April, 1816, c. 127, s. 1, v. 3, p. 817.

Section 2443, Revised Statutes.

In all cases where an officer or soldier of the Revolutionary war, or a soldier of the war of eighteen hundred and twelve, was entitled to bounty-land, has died before obtaining a patent for the land, and where application is made by a part only of the heirs of such deceased officer or soldier for such bounty-land, it shall be the duty of the Secretary of the Interior to issue the patent in the name of the heirs of such deceased officer or soldier, without specifying each; and the patent so issued in the name of the heirs, generally, shall inure to the benefit of the whole, in such portions as they are severally entitled to by the laws of descent in the State or Territory where the officer or soldier belonged at the time of his death.

3 March, 1843, res. No. 7, v. 5, p. 650.

(For further law see paragraphs 68, 129, and 133 this title.)

89. PATRIOT WAR.

See PARAGRAPH 60 THIS TITLE.

90. PERIOD OF SERVICE.

See PARAGRAPH 106 THIS TITLE.

91. PLATTSBURG, INVASION OF.

See PARAGRAPHS 75 AND 115 THIS TITLE.

BOUNTY LAND—Continued.**92. RECORDS.**

See PARAGRAPHS 51 AND 105 THIS TITLE; *also see* ARMY AND NAVY ROLLS AND RECORDS, WHERE FOUND.

93. REGULATIONS.

See PARAGRAPH 51 THIS TITLE.

94. REISSUE OF LAND-WARRANTS.

See PARAGRAPH 129 THIS TITLE.

95. REMARRIAGE.

See PARAGRAPH 141 THIS TITLE; *also* REMARRIAGE.

96. REPRESENTATIVES OF DECEASED WARRANTEES OR CLAIMANTS.

See PARAGRAPH 137 THIS TITLE.

97. REVENUE-CUTTERS.**Section 4741, Revised Statutes.**

The officers and seamen of the revenue cutters of the United States, who have been or may be wounded or disabled in the discharge of their duty while co-operating with the Navy by order of the President, shall be entitled to be placed on the Navy pension-list, at the same rate of pension and under the same regulations and restrictions as are provided by law for the officers and seamen of the Navy.

Act 18 April, 1814, c. 65, v. 3, p. 127.

DECISION OF THE SECRETARY OF THE INTERIOR.

(1) In order that service on a revenue-cutter may give title, the President, in accordance with proviso of section 98 of act of March 2, 1799, must have ordered the cutter to co-operate with the Navy.

Thompson, J., Secretary. Aug. 12, 1858. O. W. and N. Vol. 4, pp. 87, 88. (No claim.)

See PARAGRAPHS 71 AND 80 THIS TITLE.

RULING OF THE COMMISSIONER OF PENSIONS.

RULING No. —. *February 16, 1883.*

That service on the United States revenue-cutter Morris, at Key West, Fla., was not rendered at the seat of war or in Mexican waters, and gives no title to bounty-land.

B. L. No. 335,048. Whitten, Horatio. O. W. and N. Vol. 3, p. 142.

See PARAGRAPH 104 THIS TITLE.

98. REVOLUTIONARY WAR.

See PARAGRAPH 115 THIS TITLE; *see* OLD WAR,

BOUNTY LAND—Continued.**99. ROGUE RIVER INDIAN WAR.***See* PARAGRAPH 60 THIS TITLE.**100. SALES, MORTGAGES, ETC., OF WARRANTS.***See* PARAGRAPH 136 THIS TITLE.**101. SCRIP IN LIEU OF BOUNTY-LAND WARRANTS.****Section 2418, Revised Statutes.**

All the persons enumerated in this section who enlisted in the Regular Army, or were mustered in any volunteer company for a period of not less than twelve months, and who served in the war with Mexico and received an honorable discharge, or who were killed or died of wounds received or sickness incurred in the course of such service, or were discharged before the expiration of the term of service in consequence of wounds received or sickness incurred in the course of such service, shall be entitled to receive a certificate or warrant for one hundred and sixty acres of land ; or, at option, Treasury scrip for one hundred dollars, bearing interest at six per cent. per annum, payable semi-annually, at the pleasure of the Government. In the event of the death of any one of the persons mentioned in this section during service, or after his discharge, and before the issuing of a certificate or warrant, the warrant or scrip shall be issued in favor of his family or relatives ; first, to the widow and his children ; second, his father ; third, his mother ; fourth, his brothers and sisters.

11 Feb., 1847, c. 8, s. 9, v. 9, p. 126. See Act 3, March, 1849.

Section 2419, Revised Statutes.

The persons enumerated in the preceding section received into service after the commencement of the war with Mexico, for less than twelve months, and who served such term, or were honorably discharged, are entitled to receive a certificate or warrant for forty acres, or scrip for twenty-five dollars, if preferred ; and in the event of the death of such person during service, or after honorable discharge before the eleventh of February, eighteen hundred and forty-seven, the warrant or scrip shall issue to the wife, child, or children, if there be any, and if none, to the father, and if no father, to the mother of such soldier.

11 Feb., 1847, c. 8, s. 9, v. 9, p. 126.

Act of Congress approved March 3, 1849.

AN ACT making appropriation for the civil and diplomatic expenses of Government for the year ending the 30th of June, 1850, and for other purposes.

* * * * *

For the redemption of the Treasury scrip heretofore issued for the satisfaction of the bounties promised to the non-commissioned officers, musicians, and privates by the ninth section of the act of the eleventh

BOUNTY LAND—Continued.

of February, eighteen hundred and forty-seven, to raise for a limited time an additional military force, and for other purposes, and for the satisfaction in money of such bounties due under said section of said act as those to whom they are due may elect to receive in money instead of land, three hundred thousand dollars. And the Secretary of the Treasury is hereby directed, immediately after the passage of this act, to give notice by publication for sixty days in at least one of the principal papers in Washington City, Baltimore, Philadelphia, New York, and Boston, and in such other papers as he may deem expedient, that the principal and interest of such scrip as has been or may be issued prior to the first of July, Anno Domini eighteen hundred and forty-nine, will be paid on that day on presentation at the Treasury of the United States, and that the interest on such scrip will cease on that day. And the said Secretary is further directed not to issue scrip for said bounty after that day, but to pay the same in money out of this appropriation in all cases when the person entitled to the bounty in land shall elect to receive money in lieu thereof.

[NOTE.—The compilers of the Revised Statutes seem to have overlooked the above-quoted provision of the act of March 3, 1849, [an appropriation act] which repealed so much of the act of February 11, 1847, as provided for the issue of scrip in lieu of bounty in land, and said provision of the act of February 11, 1847, has been re-enacted in sections 2418 and 2419, Revised Statutes. It is, however, of little importance in this case whether the said re-enactment, in such a codification of old laws as the Revised Statutes purports to be, of a repealed law reinstates that law upon the statute books, for no one is likely to ask for the issue of a scrip certificate for \$100 in lieu of a bounty-land warrant whose market value is not less than \$175. It appears from the records of this Office and those of the Treasury Department that the last scrip certificate was issued June 28, 1849; that all of such certificates matured on the 1st of July, 1849, when interest thereon ceased. The reports of the Treasury Department show that all of said certificates have been redeemed except a small number, amounting in value to \$3,175. After the repeal of the scrip provision of the act of 1847, the Pension Office issued, under the act of 1849, a certificate for \$100 in money in lieu of a warrant for 160 acres of land, and \$25 in money in lieu of a warrant for 40 acres. The last certificate of this kind issued from this Office was dated July 29, 1869. These money certificates bore no interest; they were simply so much money paid the party entitled to the warrant in lieu thereof.]

DECISION OF THE SECRETARY OF THE INTERIOR.

(1) The issue of scrip under the provisions of section 7, act February 11, 1847, in lieu of 160 acres of land is a bar to further claim for bounty-land. The assignment of scrip does not appertain to the Department of the Interior.

Schurz, C., Secretary. July 5, 1878. Scrip certificate No. 1,134. Reid, William P. Vol. 2, p. 188

102. SERVICE IN NAVY AND ORDNANCE CORPS.

See PARAGRAPHS 80 AND 85 THIS TITLE.

103. SERVICE BY SUBSTITUTION.**DECISIONS OF ATTORNEY-GENERAL AND SECRETARY OF THE INTERIOR.**

(1) The employment of a substitute or his subsequent desertion would not impair the title to bounty-land of the principal.

Taney, R. B., Attorney-General. Nov. 4, 1831. M. and M., pp. 377, 378.

[NOTE.—According to present practice the above would be applicable only to a principal who had served fourteen days of the term in person. See (3) of this paragraph.]

BOUNTY LAND—Continued.

(2) The substitute who performed the service is the person entitled to bounty-land.

Stuart, A. H. H., Secretary. Oct. 11, 1850. (No claim.) O. W. and N. Vol. 4, p. 33.

Instructions: Graham, W. A., Acting Secretary. Oct. 15, 1850. (No claim.) O. W. and N. Vol. 4, p. 36.

(3) The substitute and not the employer is entitled; but when the drafted soldier served a portion of the time for which he was enrolled and then furnished a substitute, both would be entitled for their respective terms of actual service.

Stuart, A. H. H., Secretary. Dec. 20, 1850. Cert. No. 16,512. Parker, Celinda, 1812 Service Pension. O. W. and N. Vol. 4, p. 40.

See (1) PARAGRAPH 45 THIS TITLE.

104. SERVICE IN AND AT SEAT OF WAR REQUIRED.

(*For law, see paragraph 115 this title.*)

DECISIONS OF THE SECRETARY OF THE INTERIOR.

(1) Service in United States Army from 1850 to 1855 in Florida does not give title, as it was not *in* a war.

Smith, C. B., Secretary. Aug. 9, 1861. (No claim.) O. W. and N. Vol. 4, pp. 99, 100.

(2) Service must have been *in* a war to give title.

Instructions: Usher, J. P., Secretary. Dec. 21, 1863. Vol. 2, p. 171.

See (7) THIS PARAGRAPH.

(3) Regulars and marines not in actual service *in* a war are not entitled.

Delano, C., Secretary. Dec. 4, 1874. B. L. No. 331,544. Davis, G. R. Vol. 4, p. 398.

(4) Service must have been *in*, not simply *during*, a war to give title to bounty-land. Service at a navy-yard during Mexican war does not give title.

Delano, C., Secretary. Dec. 4, 1874. B. L. No. 331-580. Alston, James P. Vol. 4, p. 402.

(5) Service must have been rendered at the seat of war, or directly connected therewith, to give title under the act of March 3, 1855. [Section 2425 *et seq.*, R. S.]

Schurz, C., Secretary. March 11, 1878. B. L. No. 192-337. Wilson, William L. Vol. 5, p. 399.

Schurz, C., Secretary. March 25, 1879. B. L. No. 231-566. Miller, Samuel T. O. W. and N. Vol. 2, p. 82.

(6) A marine stationed at Philadelphia during the Mexican war is not entitled, as he was not at seat of war.

Schurz, C., Secretary. March 27, 1878. B. L. No. 331-745. Gould, Anna M. Vol. 5, p. 382.

(7) Soldiers and sailors not engaged at seat of war in Mexico are not entitled to bounty-land. A vessel on coast of Africa not at seat of war.

Bell, A., Acting Secretary. July 27, 1880. B. L. No. 333-225. Murphy, James. Vol. 7, p. 443.

See Bell, A., Acting Secretary. June 6, 1881. B. L. No. 331,845. Beeman, Andrew R. O. W. and N. Vol. 3, p. 9.

Kirkwood, S. J., Secretary. Sept. 15, 1881. B. L. No. 335,020. Owens, Frederick. O. W. and N. Vol. 3, p. 33.

See PARAGRAPHS 60, 75, AND 106 THIS TITLE.

BOUNTY LAND—Continued.**105. SERVICE OF A COMPANY MUST BE OF RECORD.****Section 2431, Revised Statutes.**

Where no record evidence of the service for which a warrant is claimed exists, parol evidence may be admitted to prove the service performed, under such regulations as the Commissioner of Pensions may prescribe.

14 May, 1856; sec. 3, v. 10, p. 702.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

(1) The word "service" in bounty-land acts, which authorize service to be proved by parol evidence, refers to the service of the soldier and not of his company; and parol evidence of the service of an individual cannot be accepted unless there is a record of the company in which service is alleged.

Delano, C., Secretary. May 26, 1871. B. L. Wt. No. 112,706-160-1855. Hayes, Patrick (minors). Vol. 1, p. 106.

Chandler, Z., Secretary. Nov. 24, 1875. B. L. No. 331,486. Varian, François. Vol. 4, p. 154.

Schurz, C., Secretary. June 5, 1878. B. L. No. 329,575. Farnsworth, Betsey. Vol. 5, p. 471.

Schurz, C., Secretary. Aug. 3, 1878. 1812 Service Pension claim No. 12,535. Goodrich, Phoebe Vol. 6, p. 88.

Schurz, C., Secretary. June 25, 1879. B. L. No. 333,159. Brown, Mary, widow of Jones, Matthias S. Vol. 6, p. 280.

Thompson, J., Secretary. July 8, 1858. B. L. Wt. No. 84,681-160-1855. Roberts, Elizabeth, widow of Roberts, Robert. O. W. and N. Vol. 4, p. 177.

106. SERVICE, PERIOD OR TERM OF.**Section 2418, Revised Statutes.**

* * * * *
Those who engaged to serve twelve months or during the war, and actually served nine months, shall receive one hundred and sixty acres, and those who engaged to serve six months, and actually served four months, shall receive eighty acres, and those who engaged to serve for any or an indefinite period, and actually served one month, shall receive forty acres.
* * * * *

28 Sept., 1850, c. 85, s. 1, v. 9, p. 520. 11 Feb., 1847, c. 8, s. 9, v. 9, pp. 125, 126.

Section 2419, Revised Statutes.

The persons enumerated in the preceding section received into service after the commencement of the war with Mexico, for less than twelve months, and who served such term or were honorably discharged, are entitled to receive a certificate or warrant for forty acres, or scrip for twenty-five dollars, if preferred.
* * * * *

11 Feb., 1847, sec. 9, v. 9.

Section 2422, Revised Statutes.

The period during which any officer or soldier remained in captivity with the enemy shall be estimated and added to the period of his actual

BOUNTY LAND—Continued.

service, and the person so retained in captivity shall receive land under the provisions of sections twenty-four hundred and eighteen and twenty-four hundred and twenty, in the same manner that he would be entitled in case he had entered the service for the whole term made up by the addition of the time of his captivity, and had served during such term.

28 Sept., 1850, c. 85, s. 2, v. 9, p. 520.

Section 2425, Revised Statutes.

Each of the surviving persons specified in the classes enumerated in the following section, who has served for a period of not less than fourteen days in any of the wars in which the United States have been engaged since the year seventeen hundred and ninety and prior to the third day of March, eighteen hundred and fifty-five, shall be entitled to receive a warrant from the Department of the Interior for one hundred and sixty acres of land; and, where any person so entitled has, prior to the third day of March, eighteen hundred and fifty-five, received a warrant for any number of acres less than one hundred and sixty, he shall be allowed a warrant for such quantity of land only as will make, in the whole, with what he may have received prior to that date, one hundred and sixty acres.

3 March, 1855, c. 207, ss. 1, 2, v. 10, pp. 701, 702.

Section 2427, Revised Statutes.

The following class of persons are included as beneficiaries under section twenty-four hundred and twenty-five, without regard to the length of service rendered:

First. Any of the classes of persons mentioned in section twenty-four hundred and twenty-six who have been actually engaged in any battle in any of the wars in which this country has been engaged since seventeen hundred and ninety, and prior to March third, eighteen hundred and fifty-five.

3 March, 1855, c. 207, ss. 3, 9, 11, v. 10, p. 702.

Second. Those volunteers who served at the invasion of Plattsburg, in September, eighteen hundred and fourteen.

3 March, 1855, sec. 9.

Third. The volunteers who served at the battle of King's Mountain, in the Revolutionary war.

3 March, 1855, sec. 9.

Fourth. The volunteers who served at the battle of Nickojack against the confederate savages of the South.

3 March, 1855, sec. 9.

Fifth. The volunteers who served at the attack on Lewistown, in Delaware, by the British fleet, in the war of eighteen hundred and twelve.

3 March, 1855, sec. 11.

BOUNTY LAND—Continued.**Section 2433, Revised Statutes.**

When any company, battalion, or regiment, in an organized form, marched more than twenty miles to the place where they were mustered into the service of the United States, or were discharged more than twenty miles from the place where such company, battalion, or regiment was organized, in all such cases, in computing the length of service of the officers and soldiers of any such company, battalion, or regiment, there shall be allowed one day for every twenty miles from the place where the company, battalion, or regiment was organized to the place where the same was mustered into the service of the United States, and one day for every twenty miles from the place where such company, battalion, or regiment was discharged, to the place where it was organized, and from whence it marched to enter the service, provided that such march was in obedience to the command or direction of the President, or some general officer of the United States, commanding an army or department, or the chief executive officer of the State or Territory by which such company, battalion, or regiment was called into service.

14 May, 1856, c. 26, s. 7, v. 11, p. 9; 22 March, 1852, c. 19, s. 5, v. 10, p. 4.

Act of Congress approved June 16, 1848.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That on the restoration of peace with Mexico by a treaty of peace duly ratified and proclaimed, all the military forces of the United States, whether volunteers, regulars, or the Marine Corps, who by law, or the terms of their engagement, are to be discharged at the close of the war, shall, under the direction of the President of the United States, be transported or marched with the least practicable delay, to such posts or places in the United States as may be least expensive and most convenient to the troops—and at such places they shall be discharged from the service of the United States; and that until they shall respectively reach such places and be discharged, the officers and men shall be considered, paid, and treated as in the service of the United States, in the same manner as if the war had not closed.

Vol. 9, p. 335, Statutes at Large.

(For further laws see paragraph 115 this title.)

DECISIONS OF ATTORNEY-GENERAL AND SECRETARY OF THE INTERIOR.

(1) A soldier who enlisted for twelve months in the Mexican war and sooner discharged for other cause than disability, is not entitled.

Clifford, Nathan, Attorney-General. March 17, 1848. Coleman, James. (No claim.) *Decisions of Attorneys-General*, vol. 5, p. 26. M. and M., p. 538.

[NOTE.—Affects only cases coming under act of 1847, or section 2418, R. S.]

BOUNTY LAND—Continued.

(2) Where service continued to the end of the Mexican war and then soldier is honorably discharged against his wishes, although the term for which he enlisted had not expired: *Held*, that such service gave title to bounty-land.

Johnson, Reverdy, Attorney-General. July 27, 1849. B. L. Wt. No. 64,007-160-1847. Hasson, John. Decisions of Attorneys-General, vol. 5, p. 237. M. and M., p. 500.

[NOTE.—Affects only cases coming under act of 1847, section 2418, R. S.]

(3) Troops in the service of the United States in any of the wars mentioned in the act of September 28, 1850, [section 2418, R. S.], whether in garrison or in the field, are entitled according to the length of service.

Stuart, A. H. H., Secretary. Feb. 12, 1851. (Claim not identified.) O. W. and N. Vol. 4, p. 45.

(4) A soldier honorably discharged on account of disability before the expiration of the period of his service, is entitled to the amount to which he would have been entitled for the full period.

Stuart, A. H. H., Secretary. Feb. 18, 1851. (No claim.) O. W. and N. Vol. 4, p. 46.

[NOTE.—Applies only to claims under section 2418, R. S.]

(5) In the case of troops called out by State authority during the war of 1812, and afterwards mustered into the service of the United States: *Held*, that the time actually paid for by the United States is regarded as the period of service.

Stuart, A. H. H., Secretary. March 14, 1851. (No claim.) O. W. and N. Vol. 4, p. 47.

(6) In the case of an enlistment and service after the close of the war, at a remote point out of reach of communication, where notice of treaty of peace could not have arrived: *Held*, that such enlistment and service gave title to bounty-land.

[NOTE.—Applied only to 1812 claims and reversed in regard to that class. See (8) and (9) this paragraph.

Stuart, A. H. H., Secretary. June 4, 1852. B. L. Wt. No. 1095-320-1814. Porter, John. O. W. and N. Vol. 4, pp. 55, 56.

(7) Parol evidence may be received to show "term of service," but not as "proof of service itself," which must be shown by the record.

McClelland, R., Secretary. Feb. 16, 1857. B. L. No. 104,051. Millard, Jason, substitute for Twitchell, Uriel. O. W. and N. Vol. 4, p. 82.

[NOTE.—Partly reversed; see paragraph 105 this title.]

(8) The full term of required service must have been rendered within the period of war. No credit can be given for any time served after the close of the war, although it may be in continuation of a service commenced during the war.

McClelland, R., Secretary. Nov. 17, 1856. B. L. No. 141,545. Bruce, Thomas. O. W. and N. Vol. 4, pp. 81, 82.

(9) Service must have been *in* the war to give title. Service rendered after treaty of peace not to be considered.

Bell, A., Acting Secretary. Aug. 21, 1850. B. L. No. 333,052. Davis, Samuel. Vol. 7, p. 462. Affirming, Schurz, C., Secretary. June 18, 1879, in same case.

See RULING No. 61, THIS PARAGRAPH.

BOUNTY LAND—Continued.

(10) Service subsequent to March 3, 1855, gives no title to bounty-land.

Thompson, J., Secretary. April 6, 1859. B. L. No. 279,607. Alire, Julian. O. W. and N. Vol. 1, p. 14.

Re-affirmed in same case by Secretary Delano. Jan. 11, 1871. Re-affirmed in same case by Acting Secretary Cowen. May 8, 1874.

[NOTE.—Decision of Court of Claims, Jan. 8, 1886, petition No. 1,855, favorable to allowance for such service was never adopted by the Interior Department, but was appealed by the Department to the Supreme Court, which reversed the judgment of the Court of Claims for want of jurisdiction. *United States vs. Alire*, 6 Wallace. Dec. term, 1887, p. 573.]

(11) Service prior to March 3, 1855, only, gives title to bounty-land.

Harlan, James, Secretary. Feb. 13, 1866. Heydenrich, H. (No claim.) Vol. 2, p. 186.

(12) Term of service of bounty-land claimants is governed by rules of War Department.

Harlan, James, Secretary. Dec. 14, 1865. Wells, John. (Not identified.) Vol. 2, p. 185.

(13) Full term of fourteen days' service is necessary to give title to bounty-land under act of March 3, 1855, [section 2425 *et seq.*, R. S.]. Where the term falls short in computing travel service twelve-twentieths of a day, credit is not to be given for a full day.

Schurz, C., Secretary. April 7, 1880. B. L. No. 334,428. Benjamin, Barbara, widow of Benjamin, Samuel. Vol. 7, p. 277.

See PARAGRAPHS 45 AND 103 THIS TITLE.

RULING OF THE COMMISSIONER OF PENSIONS.**RULING No. 61. June 27, 1878.**

In the adjustment of claims for service pension and for bounty-land warrants, the term of service shall be computed so as to include both the day of muster in and the day of muster out, and in such cases as additional days have been paid for, or allowed on account of travel, such additional time shall also be included.

In cases wherein it becomes important to ascertain what portion of such additional time was allowed for travel to the place of muster in and how much from the place of muster out, and the facts do not appear of record, one-half shall be counted previous to the day of muster in and one-half subsequent to the day of muster out.

In pension cases where the record fails to show service, parol proof of the service will be received from comrades who served in the same company with the claimant, *provided*, there is a record of the service of the claimant's company, and of the service of the witnesses in said company at the time claimant's service is alleged to have been rendered.

In pension cases wherein it appears that a bounty-land warrant has been issued on account of pensionable service, such service shall be taken as established, unless, upon examination of the proofs upon which the land-warrant was issued, it shall appear either that there was no proof whatever of such service or that the term of service was erroneously computed.

BOUNTY LAND—Continued.**107. SISTERS AND BROTHERS.***See* PARAGRAPH 15 THIS TITLE.**108. SPECIAL ACTS.****DECISION OF THE SECRETARY OF THE INTERIOR.**

(1) A special act of Congress granting a pension to a party is not to be construed as including allowance of bounty-land.

Schurz, C., Secretary. Jan. 27, 1881. 1812 pension. Ctf. No. 25,458. Morgan, Peter K. O. W. and N. Vol. 2, p. 335.

109. SPIES.*See* PARAGRAPH 24 THIS TITLE.**110. STATE TROOPS.***See* PARAGRAPH 75 THIS TITLE.**111. SUCCESSION OF TITLE TO BOUNTY LAND.****Section 2418, Revised Statutes.**

* * * * *

In the event of the death of any one of the persons mentioned in this section during service, or after his discharge, and before the issuing of a certificate or warrant, the warrant or scrip shall be issued in favor of his family or relatives; first, to the widow and his children; second, his father; third, his mother; fourth, his brothers and sisters.

11 Feb., 1847, s. 9. v. 9.

Section 2419, Revised Statutes.

* * * * *

And in the event of the death of such person during service, or after honorable discharge before the eleventh of February, eighteen hundred and forty-seven, the warrant or scrip shall issue to the wife, child, or children, if there be any, and, if none, to the father, and if no father, to the mother of such soldier.

11 Feb., 1847, c. 8, s. 9. v. 9, p. 126.

Section 2428, Revised Statutes.

In the event of the death of any person who would be entitled to a warrant, as provided in section twenty-four hundred and twenty-five, leaving a widow, or, if no widow, a minor child, such widow or such minor child shall receive a warrant for the same quantity of land that the decedent would be entitled to receive, if living on the third day of March, eighteen hundred and fifty-five.

8 March, 1855, c. 207, s. 2, v. 10, p. 702.

See also PARAGRAPH 137 THIS TITLE.

BOUNTY LAND—Continued.**112. TEAMSTERS.**

See PARAGRAPH 24 THIS TITLE.

113. TERM OF SERVICE.

See PARAGRAPH 106 THIS TITLE.

114. TEXAN INDIAN WARS.

See PARAGRAPH 60 THIS TITLE.

115. TITLE, HOW ACQUIRED, BY WHOM, FOR WHAT QUANTITY OF LAND.

Act of Congress approved February 11, 1847.

[NOTE.—*See note following section 2418, R. S., post.*]

SEC. 9. *And be it further enacted*, That each non-commissioned officer, musician, or private, enlisted or to be enlisted in the Regular Army, or regularly mustered in any volunteer company for a period of not less than twelve months, who has served or may serve during the present war with Mexico, and who shall receive an honorable discharge, or who shall have been killed, or died of wounds received or sickness incurred in the course of such service, or who shall have been discharged before the expiration of his term of service in consequence of wounds received or sickness incurred in the course of such service, shall be entitled to receive a certificate or warrant from the War Department for the quantity of one hundred and sixty acres. * * * That in the event of the death of any such non-commissioned officer, musician, or private, during service or after his discharge, and before the issuing of a certificate or warrant as aforesaid, the said certificate or warrant shall be issued in favor and inure to the benefit of his family or relatives, according to the following rules: first to the widow and to his children; second, his father; third, his mother. And in the event of his children being minors, then the legally constituted guardian of such minor children shall, in conjunction with such of the children, if any, as may be of full age, upon being duly authorized by the orphans' or other court having probate jurisdiction, have power to sell and dispose of such certificate or warrant for the benefit of those interested. * * *

Provided, further, That every such non-commissioned officer, musician, and private, who may be entitled, under the provisions of this act, to receive a certificate or warrant for one hundred and sixty acres of land, shall be allowed the option to receive such certificate or warrant, or a Treasury scrip for one hundred dollars; and such scrip, whenever it is preferred, shall be issued by the Secretary of the Treasury to such person or persons as would be authorized to receive such certificates or warrants for lands; said scrip to bear an interest of six per cent. per annum, payable semi-annually, redeemable at the pleasure of

BOUNTY LAND—Continued.

the Government. And that each private, non-commissioned officer, and musician, who shall have been received into the service of the United States since the commencement of the war with Mexico, for less than twelve months, and shall have served for such term or until honorably discharged, shall be entitled to receive a warrant for forty acres of land, which may be subject to private entry, or twenty-five dollars in scrip if preferred, and in the event of the death of such volunteer during his term of service, or after an honorable discharge, but before the passage of this act, then the warrant for such land or scrip shall issue to the wife, child, or children, if there be any, and if none, then to the father, and if there be no father, then to the mother of such deceased volunteer.

Vol. 9, p. 126, Statutes at Large.

Act of Congress approved May 27, 1848, amending act of February 11, 1847.

[NOTE.—See note following sec. 2418, R. S., post.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the term "relatives," as used in the ninth section of the act entitled "An act to raise, for a limited time, an additional military force, and for other purposes," approved eleventh February, eighteen hundred and forty-seven, shall be considered as extending to the brothers and sisters of those persons whose services, under that act, may have entitled them to the land therein provided: The order or priority of right, however, shall remain as declared in that act; and those failing, the right shall accrue, fourthly, to the brother or sister, or in equal proportions to the brothers and sisters of the deceased, as the case may be.

SEC. 2. *And be it further enacted,* That the benefits of the said act of eleventh February, eighteen hundred and forty-seven, shall not be construed as forfeited by the privates and non-commissioned officers who have been or may be promoted to the grade of commissioned officer during their service in Mexico, and who shall have subsequently fulfilled the condition of their engagements: *Provided,* Such promotion shall have been made subsequent to the original organization of the company, corps, or regiment to which such privates and non-commissioned officers may have belonged.

Vol. 9, p. 232, Statutes at Large.

Act of Congress approved July 10, 1848.

[NOTE.—Not re-enacted in the Revised Statutes.]

SEC. 2. *And be it further enacted,* That those enlisted men of the Ordnance Department who have served, or may serve, in Mexico during the war with that country, shall be entitled to, and shall receive, the same bounty in land as is or may be allowed by law to other regular troops

BOUNTY LAND—Continued.

in the service of the United States, and under like limitations and restrictions.

Vol. 9, p. 246, Statutes at Large.

Act of Congress approved August 10, 1848.

[NOTE.—*Not re-enacted in the Revised Statutes.*]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the officers, non-commissioned officers, privates, and musicians, of the Marine Corps, who have served with the Army in the war with Mexico, and also the artificers and laborers of the Ordnance Corps serving in said war, be placed, in all respects as to bounty land and other remuneration, in addition to ordinary pay, on a footing with the officers, non-commissioned officers, privates, and musicians of the Army: Provided, That this remuneration shall be in lieu of prize money and all other extra allowances.

Vol. 9, p. 340, Statutes at Large.

Section 2418, Revised Statutes.

Each of the surviving, or the widow or minor children of deceased, commissioned and non-commissioned officers, musicians, or privates, whether of regulars, volunteers, rangers, or militia, who performed military service in any regiment, company, or detachment in the service of the United States in the war with Great Britain, declared on the eighteenth day of June, eighteen hundred and twelve, or in any of the Indian wars since seventeen hundred and ninety, and prior to the third of March, eighteen hundred and fifty, and each of the commissioned officers who was engaged in the military service of the United States in the war with Mexico, shall be entitled to lands as follows: Those who engaged to serve twelve months or during the war, and actually served nine months, shall receive one hundred and sixty acres, and those who engaged to serve six months, and actually served four months, shall receive eighty acres, and those who engaged to serve for any or an indefinite period, and actually served one month, shall receive forty acres; but wherever any officer or soldier was honorably discharged in consequence of disability contracted in the service before the expiration of his period of service, he shall receive the amount to which he would have been entitled if he had served the full period for which he had engaged to serve. All the persons enumerated in this section who enlisted in the Regular Army, or were mustered in any volunteer company for a period of not less than twelve months, and who served in the war with Mexico and received an honorable discharge, or who were killed or died of wounds received or sickness incurred in the course of such service, or were discharged before the expiration of the term of service, in consequence of wounds received or sickness incurred in the course of such service, shall be entitled to receive a certificate or war-

BOUNTY LAND—Continued.

rant for one hundred and sixty acres of land; or, at option, Treasury scrip for one hundred dollars, bearing interest at six per cent. per annum, payable semi-annually, at the pleasure of the Government. In the event of the death of any one of the persons mentioned in this section during service, or after his discharge, and before the issuing of a certificate or warrant, the warrant or scrip shall be issued in favor of his family or relatives; first, to the widow and his children; second, his father; third, his mother; fourth, his brothers and sisters.

28 Sept., 1850, c. 85, s. 1, v. 9, p. 520; 11 Feb., 1847, c. 8, s. 9, v. 9, pp. 125, 126; 1812 war; Regular Army, see act 24 Dec., 1811, sec. 2; see act 11 Jan., 1812, sec. 12; see act 20 Jan., 1813, sec. 4; volunteers, see act 6 Feb., 1812, sec. 6; Regular Army double bounty, see act 10 Dec., 1814, sec. 2 and 4; see act 16 Apr., 1816, sec. 3; see act 27 May, 1848, sec. 2; for end of Mexican war, see res. 16 June, 1848; discharge for disability, see res. 24 Mar., 1848; for brothers and sisters, see act 27 May, 1848, sec. 1.

[NOTE.—It is supposed that the preceding section was intended to embody the provisions of the bounty-land acts of February 11, 1847, and September 28, 1850. The former act as amended granted bounty-land to the enlisted men of the Mexican war, their widows and children, fathers, mothers, brothers and sisters. The latter act made similar grants to the commissioned officers of that war, and to the officers and enlisted men of other wars from 1790 to the date of the act and to the widows and minor children of such officers and enlisted men. In the attempt to combine these two acts in section 2418 above, and by the peculiar construction of that section, those who were actually provided for in the act of 1847, viz, the *enlisted men and their heirs*, were entirely omitted, while on the other hand the benefits of the act of 1850 were extended to a class of heirs, to wit, fathers, mothers, brothers and sisters, who were not previously provided for in that act or in any other bounty-land law, except the act of 1847 and amendment. The question raised by these diversities in the law has, however, been settled by the Department. It is held: 1. That the provisions of the act of 1847 are kept in force by section 5597, Revised Statutes, notwithstanding the provisions of repeal contained in section 5596, Revised Statutes; and 2, that the new law incorporated in section 2418, must be given its full force and intent. See PARAGRAPHS 15 DECISION (3) AND 47 DECISION (4) THIS TITLE.]

Section 2419, Revised Statutes.

[NOTE.—See note following section 2418, *R. S.*, ante.]

The persons enumerated in the preceding section received into service after the commencement of the war with Mexico, for less than twelve months, and who served such term, or were honorably discharged, are entitled to receive a certificate or warrant for forty acres, or scrip for twenty-five dollars, if preferred; and in the event of the death of such person during service, or after honorable discharge before the eleventh of February, eighteen hundred and forty-seven, the warrant or scrip shall issue to the wife, child, or children, if there be any, and, if none, to the father, and if no father, to the mother of such soldier.

11 Feb., 1847, c. 8, s. 9, v. 9, p. 126.

See PARAGRAPH 101 THIS TITLE.

Section 2420, Revised Statutes.

Where the militia, or volunteers, or State troops of any State or Territory, subsequent to the eighteenth day of June, eighteen hundred and twelve, and prior to March twenty-second, eighteen hundred and fifty-two, were called into service, the officers and soldiers thereof shall be

BOUNTY LAND—Continued.

entitled to all the benefits of section two thousand four hundred and eighteen upon proof of length of service as therein required.

22 Mar., 1852, c. 19, s. 4, v. 10, p. 4.

Section 2421, Revised Statutes.

No person shall take any benefit under the provisions of the three preceding sections if he has received, or is entitled to receive, any military land bounty under any act of Congress passed prior to the twenty-second March, eighteen hundred and fifty-two.

28 Sept., 1850, c. 85, s. 1, v. 9, p. 520; 22 Mar., 1852, sec. 4, proviso.

Section 2424, Revised Statutes.

In the event of the death of any person for whom provision is made by sections twenty-four hundred and eighteen and twenty-four hundred and twenty, and who did not receive bounty-land for his services, a like warrant shall issue in favor of his widow, who shall be entitled to one hundred and sixty acres of land in case her husband was killed in battle; nor shall a subsequent marriage impair the right of any widow to such warrant, if she be a widow at the time of making her application.

28 Sept. 1850, c. 85, s. 3, v. 9, p. 520.

Section 2425, Revised Statutes.

Each of the surviving persons specified in the classes enumerated in the following section, who has served for a period of not less than fourteen days in any of the wars in which the United States have been engaged since the year seventeen hundred and ninety and prior to the third day of March, eighteen hundred and fifty-five, shall be entitled to receive a warrant from the Department of the Interior for one hundred and sixty acres of land; and, where any person so entitled has, prior to the third day of march, eighteen hundred and fifty-five, received a warrant for any number of acres less than one hundred and sixty, he shall be allowed a warrant for such quantity of land only as will make, in the whole, with what he may have received prior to that date, one hundred and sixty acres.

3 Mar., 1855, c. 207, ss. 1, 2, v. 10, pp. 701, 702.

Section 2426, Revised Statutes.

The classes of persons embraced as beneficiaries under the preceding section are as follows, namely:

First. Commissioned and non-commissioned officers, musicians, and privates, whether of the regulars, volunteers, rangers, or militia, who were regularly mustered into the service of the United States.

Second. Commissioned and non-commissioned officers, seamen, ordinary seamen, flotilla-men, marines, clerks, and landsmen in the Navy.

BOUNTY LAND—Continued.

Third. Militia, volunteers, and State troops of any State or Territory, called into military service and regularly mustered therein, and whose services have been paid by the United States.

Fourth. Wagon-masters and teamsters who have been employed under the direction of competent authority, in time of war, in the transportation of military stores and supplies.

Fifth. Officers and soldiers of the Revolutionary war, and marines, seamen, and other persons in the naval service of the United States during the war.

Sixth. Chaplains who served with the Army.

Seventh. Volunteers who served with the armed forces of the United States in any of the wars mentioned, subject to military orders, whether regularly mustered into the service of the United States or not.

3 Mar., 1855, c. 207, ss. 1, 8, 10, v. 10, p. 701; 14 May, 1856, c. 28, ss. 4, 5, v. 11, pp. 8, 9; 3 Mar., 1855, s. 1; 3 Mar., 1855, s. 1, 2d proviso; 3 Mar., 1855, s. 8; 14 May, 1856, s. 4; 3 Mar. 1855, s. 10; 14 May, 1856, s. 5.

Section 2427, Revised Statutes.

The following class of persons are included as beneficiaries under section twenty-four hundred and twenty-five, without regard to the length of service rendered:

First. Any of the classes of persons mentioned in section twenty-four hundred and twenty-six who have been actually engaged in any battle in any of the wars in which this country has been engaged since seventeen hundred and ninety, and prior to March third, eighteen hundred and fifty-five.

Second. Those volunteers who served at the invasion of Plattsburgh, in September, eighteen hundred and fourteen.

Third. The volunteers who served at the battle of King's Mountain in the Revolutionary war.

Fourth. The volunteers who served at the battle of Nickojack against the confederate savages of the south.

Fifth. The volunteers who served at the attack on Lewistown, in Delaware, by the British fleet, in the war of eighteen hundred and twelve.

3 Mar. 1855, c. 207, ss. 3, 9, 11, v. 10, p. 702; 3 Mar. 1855, s. 9; 3 Mar. 1855, s. 11.

Section 2428, Revised Statutes.

In the event of the death of any person who would be entitled to a warrant, as provided in section twenty-four hundred and twenty-five, leaving a widow, or, if no widow, a minor child, such widow or such minor child shall receive a warrant for the same quantity of land that the decedent would be entitled to receive if living on the third day of March, eighteen hundred and fifty-five.

3 March, 1855, c. 207, s. 2, v. 10, p. 702; also 14 May, 1856, sec. 6.

BOUNTY LAND—Continued.**116. TITLE, SUCCESSION TO.**

See PARAGRAPHS 111 AND 137 THIS TITLE.

117. TITLE TO WARRANTS.

See PARAGRAPHS 111, 137, AND 138 THIS TITLE.

118. TOLEDO WAR.

See PARAGRAPH 60 THIS TITLE.

119. TRADERS.

See PARAGRAPH 24 THIS TITLE.

120. UTAH INDIAN WAR.

See PARAGRAPH 60 THIS TITLE.

121. VIRGINIA STATE WARRANTS, WAR OF THE REVOLUTION.

[NOTE.—The State of Virginia made extensive grants of bounty in land to her officers and soldiers who served in the war of the Revolution. Upon the transfer by that State of her Northwestern Territory to the United States, the General Government assumed the obligations of the State to said officers and soldiers, and made provision for the locating and patenting of the warrants issued to them by the State. None of this class of claims have been settled in the Pension Office. All the records in regard to them which are in the possession of the General Government are to be found in the General Land Office, Interior Department.]

122. VOLUNTEERS.

See PARAGRAPH 75 THIS TITLE.

123. WAGON MASTERS.

See PARAGRAPH 24 THIS TITLE.

124. WAR.

See PARAGRAPHS 60, 74, AND 98 THIS TITLE, AND TITLE WARS AND LOCAL DISTURBANCES, &C.

125. WARRANTS, ASSIGNMENT OF.

See PARAGRAPH 9 THIS TITLE.

126. WARRANTS, CANCELLATION, ERASURE, OR DESTRUCTION OF.**DECISIONS OF THE SECRETARY OF THE INTERIOR.**

(1) Erasures and rewriting noted as having occurred before issuing a warrant do not vitiate it.

Stuart A. H. H., Secretary. May 20, 1851. M. and M., p. 570. (No claim.)

7018 PEN—3

BOUNTY LAND—Continued.

(2) A warrant canceled for a fraudulent assignment by a person representing himself to be the warrantee cannot be reinstated.

McClelland, R., Secretary. Jan. 3, 1854. B. L. Wt. No. 70,757-160-1847. Swartwort, John H. O. W. and N. Vol. 4, pp. 67, 68.

See B. L. Wt. No. 63,525-160-1847. Nippers, Joseph, in which case the alleged warrantee had died prior to a forged assignment of the warrant, and in fact prior to the date when the application purported to have been made.

(3) The cancelation or destruction of a warrant cannot defeat or destroy the right which a party may have under the laws granting bounty-land.

Browning, O. H., Secretary. May 16, 1867. B. L. Wt. No. 17,906-160-1855. Grinnell, Hannah, widow of Grinnell, Royal. Vol. 6, p. 268.

(4) I. Cancellation of bounty-land warrant, by the Commissioner of Pensions, in the hands of an innocent assignee, *unwarranted*.

II. The Commissioner of Pensions has no power to determine who are innocent purchasers or bona-fide assignees of land warrants.

III. Caveats filed by the Commissioner of Pensions are of no force or effect in cases in which the Land Office determines that the land warrants are in the hands of innocent purchasers.

IV. Land warrants withdrawn from the General Land Office should be returned to the Commissioner of said office for his files, with a statement of facts touching the validity of their issue.

V. Examination of military land warrants on file in the General Land Office should be made by the subordinates of the Pension Office.

VI. In all cases of land warrants where the records or files of the Pension Office show fraud, the fact should be communicated to the General Land Office.

Kirkwood, S. J., Secretary. July 23, 1881. B. L. Wt. No. 48,552-80-1850. Foster, Isaac. Vol. 8, p. 367.

127. WARRANTS, DELIVERY OF.**DECISION OF THE SECRETARY OF THE INTERIOR.**

(1) Warrants should not be delivered to attorneys, agents, or other persons without written assent of claimant.

Instructions: Delano, C., Secretary. May 30, 1875. O. W. and N. Vol. 3, p. 7.

See (4) PARAGRAPH 129 THIS TITLE.

128. WARRANTS, DOUBLE.

See PARAGRAPH 39 THIS TITLE.

129. WARRANTS, DUPLICATE OF.**Section 2441, Revised Statutes.**

Whenever it appears that any certificate or warrant, issued in pursuance of any law granting bounty-land, has been lost or destroyed, whether the same has been sold and assigned by the warrantee or not, the Secretary of the Interior is required to cause a new certificate or

BOUNTY LAND—Continued.

warrant of like tenor to be issued in lieu thereof; which new certificate or warrant may be assigned, located, and patented in like manner as other certificates or warrants for bounty-land are now authorized by law to be assigned, located, and patented; and in all cases where warrants have been, or may be, reissued, the original warrant, in whose-ever hands it may be, shall be deemed and held to be null and void, and the assignment thereof, if any there be, fraudulent; and no patent shall ever issue for any land located therewith, unless such presumption of fraud in the assignment be removed by due proof that the same was executed by the warrantee in good faith and for a valuable consideration.

23 June, 1860, c. 203, s. 1, v. 12, p. 90.

Section 2442, Revised Statutes.

The Secretary of the Interior is required to prescribe such regulations for carrying the preceding section into effect as he may deem necessary and proper, in order to protect the Government against imposition and fraud by persons claiming the benefit thereof; and all laws and parts of laws for the punishment of frauds against the United States are made applicable to frauds under that section.

23 June, 1860, c. 203, s. 2, v. 12, p. 91.

(For other laws see Paragraph 115 this Title.)

DECISIONS OF THE SECRETARY OF THE INTERIOR.

(1) When a bounty-land warrant forwarded to the claimant by mail or otherwise is lost, after due publication of the loss, application for a re-issue, and the filing of a caveat against the issue of a patent, the party entitled should receive a duplicate without being compelled to prove the loss or destruction of a warrant that he never saw or at any time controlled.

Ewing, T., Secretary. Feb. 25, 1850. B. L. Wt. No. 62,444-160-1847. Morgan, M. H. M. and M., p. 544.

[See next decision.]

(2) When the party sending, the party to whom the warrants were sent, and the postmaster have made oath to the sending and non-receipt, a duplicate warrant should be issued, such evidence being preserved in the Pension and General Land Offices as will prevent the improper use of the originals.

Ewing, T., Secretary. March 29, 1850. B. L. Wt. No. 44,197-160-1847. Young, James C. M. and M., p. 551.

(3) A duplicate warrant should be in favor of the party to whom the original was issued, and be delivered to the legally accredited assignee.

Ewing, T., Secretary. March 28, 1850. M. and M., p. 549. (No claim.)

(4) Duplicates may be issued, if evidence of loss is satisfactory, and delivered to the person entitled to the possession of the originals. The

BOUNTY LAND—Continued.

transfer of title when the assignment is lost must be settled in a court of justice.

Ewing, T., Secretary. April 16, 1850. B. L. Wt. No. 27,804-160-1847. Webb, Robert F. M. and M., p. 532.

(5) A duplicate should not be issued where the original is known to be in existence and claimed adversely by a party other than the applicant for reissue. When an application for duplicate is made by an assignee, he must prove that at the time of the loss or destruction of the warrant, the complete legal title thereto vested in him.

Thompson, J., Secretary. Sept. 12, 1860. (No claim.) O. W. and N. Vol. 4, pp. 103, 106.

[NOTE.—Prior to August 27, 1861, land warrants might be assigned in blank, and in such form pass from hand to hand; and all so assigned prior to that date are still recognized as valid. But after that date it was required to give legal force and effect to an assignment that the name of the assignee should be filled in.

See circular of the General Land Office, August 27, 1861; also circular issued July 20, 1875. This view of the case is not fully sustained by the honorable Secretary of the Interior in a decision of later date, who declares that it is the practice to still recognize assignments made in blank.

Teller, H. M., Secretary. April 24, 1883. B. L. Wt. No. 100,966-160-1855. Little, Mary E., widow of Robert. O. W. and N. Vol. 3, p. 170.

The authorities of the General Land Office, however, still hold (1885) to the practice indicated in the circulars referred to above.]

(6) Duplicates of pension certificates or bounty-land warrants may issue, if the originals be lost, canceled, or destroyed.

Browning, O. H., Secretary. Feb. 14, 1867. Hitchcock, George A. (No claim.) Vol. 2, p. 190.

(7) In any case in which it shall be proved to the satisfaction of the Commissioner of Pensions that bounty-land warrant has been lost, except lost in General Land Office, duplicate may issue.

Schurz, C., Secretary. Oct. 25, 1877. B. L. Wt. No. 44,420-80-1850. Dix, Thomas. Vol. 5, p. 254. [See next decision.]

(8) In applying for duplicate, where the original warrant was lost in the General Land Office, publication of the loss of the warrant need not be made.

Schurz, C., Secretary. Feb. 28, 1880. B. L. Wt. No. 93,148-120-1855. Keity, Elizabeth. O. W. and N. Vol. 2, p. 250.

(9) Triplicate warrants may be issued.

Schurz, C., Secretary. July 26, 1879. B. L. Wt. No. 37,395-80-1855. Kinsolver, Charles. Vol. 6, p. 414.

(10) Where it satisfactorily appears that more than twenty-nine years have elapsed since the issue of the original warrant, which is claimed to have been lost: *Held*, that the fact justifies the issue of a duplicate warrant, a caveat having been filed against issuing patent on the original warrant.

Schurz, C., Secretary. July 28, 1880. B. L. Wt. No. 8,441-160-1830. Ray, Sarah Ann, widow of William. Vol. 7, p. 446.

Schurz, C., Secretary. June 17, 1879. B. L. Wt. No. 3,103-160-1847. Anderson, James W. O. W. and N. Vol. 2, p. 124. Also, in same case by same Secretary. July 28, 1879. O. W. and N. Vol. 2, p. 178.

BOUNTY LAND—Continued.**RULING OF THE COMMISSIONER OF PENSIONS.**

RULING No. 120. July 15, 1885.

The lapse of thirteen years after the alleged loss of a bounty-land warrant without its presentation to the General Land Office or any of its agencies, the loss having been published, in accordance with law, more than one and a half years before application for a reissue, justifies the office in presuming that the warrant is not in the hands of an innocent purchaser, and in issuing a duplicate of the warrant, upon filing a caveat in the General Land Office.

B. L. Wt. No. 95,734-120—1855. Ives, Henry C.

See PARAGRAPHS 51, 88, 135, AND 138 THIS TITLE.

130. WARRANTS, FORGERY, &c., OF.

See PARAGRAPHS 50 THIS TITLE.

131. WARRANTS, FRAUD OR ERROR IN OBTAINING.**DECISIONS OF THE SECRETARY OF THE INTERIOR.**

(1) A warrant fraudulently obtained should not prejudice the claim of a person legally entitled.

Ewing, T., Secretary. May 16, 1849. B. L. Wt. No. 58,061-100-1847. Ambrose, Robert, heir at law of Ambrose, Philip S. M. and M., p. 538.

(2) A warrant fraudulently procured or issued by mistake does not invalidate the claim of the rightful claimant.

Ewing, T., Secretary. March 16, 1850. B. L. Wt. No. 68,599-160-1847. Reddings, Joseph, heirs of. M. and M. p. 548.

(3) When a warrant has been issued to the wrong person on false testimony, the party rightfully entitled does not lose his right thereby.

Stuart, A. H. H., Secretary. Nov. 21, 1850. B. L. Wt. No. 16,363-160-1847. Kraft, William H. O. W. and N. Vol. 4, p. 38. See also opinion of Attorney-General Taney, March 19, 1832. Decisions of Attorneys-General, vol. 2, p. 501.

(4) A warrant issued to widow who applied under the belief that her husband was dead cannot be regarded as a satisfaction of his claim should it be shown that he is alive.

Cowen, B. R., Acting Secretary. June 12, 1875. B. L. Wt. No. 114,232-160-1855. Gifford, Henry. Vol. 5, p. 70.

(5) The Department must have positive proof that the original warrant was obtained through fraud before issuing a second warrant.

[NOTE.—Except duplicates of lost or destroyed warrants.]

Schurz, C., Secretary. Aug. 28, 1878. B. L. Wt. No. 92,651-120-1855. Chambers, William. O. W. and N. Vol. 2, p. 4.

BOUNTY LAND—Continued.**132. WARRANTS, INNOCENT PURCHASER OF.***(For law see paragraph 9 this Title.)***DECISIONS OF THE SECRETARY OF THE INTERIOR AND OPINION OF ATTORNEY-GENERAL.**

(1) The Government has the right to cancel a warrant after it has passed into the hands of an innocent purchaser.

Ewing, T., Secretary. May 15, 1850. B. L. Wt. No. 15,886-160-1847. Doyle, Samuel B. O. W. and N. Vol. 4, p. 23.

[NOTE.—Based upon decision of Attorney-General Wirt, that a warrant obtained by fraud should be canceled without rendering it illegible and should be returned to the party presenting it to obtain redress in court of justice. Wirt, William, Attorney-General. Dec. 26, 1819. M. and M., p. 343.]

[Reversed. See next two decisions,]

(2) Bounty-land warrants, regularly issued, though they may have been procured by fraud, or issued on insufficient evidence, are valid against the Government in the hands of innocent holders without notice of the fraud.

Stuart, A. H. H., Secretary. Nov. 10, 1851. M. and M., p. 572. (No claim.)

(3) An innocent purchaser of a canceled bounty-land warrant is entitled to a new one.

Usher, J. P., Secretary. Dec. 13, 1864. B. L. Wt. No. 96,689-160-1855. Pereux, Claude. Vol. 2, p. 178.

(4) A warrant fraudulently obtained in the name of a person deceased, without heirs or minors, or of a fictitious person, is a nullity, and cannot be lawfully assigned, and may be rejected or canceled by the Commissioner of the General Land Office; but a warrant having been issued to a person capable of assigning, even though fraud and irregularity be used in securing the same, the title of a person innocently purchasing it is not affected by such irregularity of fraud, and the Government cannot cancel the warrant by reason of such fraud.

Cushing, C., Attorney-General. March 15, 1856. Opinions of Attorneys-General, vol. 7, pp. 65, 67. See also Schurz, C., Secretary. July 23, 1878. B. L. Wt. No. 11, 369-80-1855. Love, Samuel. Vol. 6, p. 39.

See PARAGRAPHS 126 AND 129 THIS TITLE.

133. WARRANTS, ISSUE OF.**Section 2423, Revised Statutes.**

Every person for whom provision is made by sections twenty four hundred and eighteen and twenty-four hundred and twenty, shall receive a warrant from the Department of the Interior for the quantity of land to which he is entitled, and upon the return of such warrant, with evidence of the location thereof having been legally made, to the General Land Office a patent shall be issued therefor.

28 Sept., 1850, c. 85, s. 3, v. 9, p. 520. See ordinance 20 May, 1785. See act 15 April, 1806, sec. 1 and 2, and numerous continuing acts. See act 6 May, 1812, sec. 3.

See FOR FURTHER LAW PARAGRAPH 115 THIS TITLE.

BOUNTY LAND—Continued.**134. WARRANTS, LOCATION OF.**

See PARAGRAPH 68 THIS TITLE.

135. WARRANTS, ONLY ONE FOR SAME SERVICE OR TO SAME PERSON.**Section 2421, Revised Statutes.**

No person shall take any benefit under the provisions of the three preceding sections if he has received, or is entitled to receive, any military land bounty under any act of Congress passed prior to the twenty-second of March, eighteen hundred and fifty-two.

28 Sept., 1850, c. 85, s. 1, v. 9, p. 520. Also 22 March, 1852, s. 4, proviso.

[NOTE.—This provision of law relates only to persons provided for in sections 2418, 2419, and 2420, R. S.]

DECISIONS OF THE SECRETARY OF THE INTERIOR.

(1) No person is entitled to more than one land warrant, though he may have performed service which, if rendered by several different individuals, would have entitled each to a warrant.

Stuart, A. H. H., Secretary. Oct. 11, 1850. (No claim.) O. W. and N. Vol. 4, pp. 33, 34.

[See note to (4) this paragraph.]

(2) Different terms of service by the same individual are to be consolidated, and one warrant for 40, 80, or 160 acres issued for the aggregate.

Stuart, A. H. H., Secretary. Jan. 22, 1851. (No claim). M. and M., pp. 565, 566.

[See note to (4) of this paragraph.]

(3) The widow who was the wife successively of two men whose service entitles them to bounty-land, is entitled to only one warrant for 160 acres.

McClelland, R., Secretary. Jan. 4, 1856. B. L. Wt. No. 8,420-160-1855. Woolworth, Margaret, widow of Alexander. O. W. and N. Vol. 4, p. 77.

(4) Two warrants may be issued to one person for two separate periods of service in the Mexican War.

Schurz, C., Secretary. July 26, 1879. B. L. Wt. No. 3,103-160-1847. Anderson, James W. Vol. 6, p. 412.

[NOTE.—If an enlisted man or his heirs had obtained a land warrant under the act of 1850 or 1855, for service other than in war of 1812 or Mexican war, they would be entitled to an additional warrant under the act of Jan. 11, 1812 or Feb. 11, 1847, for enlistment and service under provisions of said acts. See paragraph 1 this title.]

RULING OF THE COMMISSIONER OF PENSIONS.

RULING.—*June 16, 1881.*

A widow of two soldiers, the second of whom had himself obtained a warrant, is entitled to a warrant for service of first husband.

B. L. Wt. No. 114,653-160-1855. Fisher, Susan, widow of McGraw, Hugh. O. W. and N. Vol. 3, p. 13.

See note to (4) of this paragraph.

BOUNTY LAND—Continued.**136. WARRANTS, SALES, &c., OF.****Section 2436, Revised Statutes.**

All sales, mortgages, letters of attorney, or other instruments of writing, going to affect the title or claim to any warrant issued, or to be issued, or any land granted, or to be granted, under the preceding provisions of this chapter, made or executed prior to the issue of such warrant, shall be null and void to all intents and purposes whatsoever; nor shall such warrant, or the land obtained thereby, be in anywise affected by, or charged with, or subject to, the payment of any debt or claim incurred by any officer or soldier prior to the issuing of the patent.

28 Sept., 1850, c. 85, s. 4, v. 9, p. 521; also, 11 Feb., 1847, sec. 9; see ordinance 20 May, 1785; see act 20 Apr., 1806, secs. 1, 2, and various continuing acts; see act 6 May, 1812, sec. 4.

(For further laws, see paragraph 50 this Title.)

137. WARRANTS, SUCCESSION OF TITLE TO.**Section 2444, Revised Statutes.**

When proof has been or hereafter is filed in the Pension Office during the lifetime of a claimant, establishing, to the satisfaction of that office, his right to a warrant for military services, and such warrant has not been, or may not be, issued until after the death of the claimant, and all such warrants as have been heretofore issued subsequent to the death of the claimant, the title to such warrants shall vest in his widow, if there be one, and if there be no widow, then in the heirs or legatees of the claimant; and all military bounty-land warrants issued pursuant to law shall be treated as personal chattels, and may be conveyed by assignment of such widow, heirs, or legatees, or by the legal representatives of the deceased claimant, for the use of such heirs or legatees only.

3 June, 1858, c. 84, s. 1, v. 11, p. 308; see 11 Feb., 1847, sec. 9; see 28 Sept., 1850, sec. 3.

Section 2445, Revised Statutes.

The legal representatives of a deceased claimant for a bounty-land warrant, whose claim was filed prior to his death, may file the proofs necessary to perfect such claim.

3 Mar., 1869, c. 138, v. 15, p. 336.

See PARAGRAPH 111 THIS TITLE.

DECISIONS OF ATTORNEY-GENERAL AND SECRETARY OF THE INTERIOR.

(1) Where a person entitled to bounty-land died before he received it, leaving two heirs at law, and a will devising certain other of his real and personal estate to one to be in full for all interest in his estate: *Held*, that the other takes the bounty-land by implication.

[NOTE.—Obsolete. See section 2444, R. S.; also, see (4) this paragraph.]

Taney, R. B., Attorney-General. Oct. 25, 1832. *Decisions of Attorneys-General*, vol. 2, p. 535. M. and M., p. 383.

BOUNTY LAND—Continued.

(2) Title to bounty-land of a soldier dying intestate reverts, after the death of the widow, to the heirs at law of the soldier, and not to those of the widow, except there were none in the paternal line.

[NOTE.—See section 2444, R. S.; also see (4) this paragraph.]

Taney, R. B., Attorney-General. Sept. 5, 1833. Decisions of Attorneys-General, vol. 2, p. 579. M. and M. p. 390.

(3) A warrant issued to one person during his life cannot, after his death, be recalled and a warrant issued to the person who would have acquired title by the death of the other before the issue of the warrant; but the warrant becomes the proper subject of judicial decision.

Ewing, T., Secretary. June 3, 1850. (No claim.) O. W. and N. Vol. 4, p. 25.

(4) Title to bounty-land is not devisable under act of February 11, 1847 [section 2418, R. S.], but must be issued according to the rules of priority prescribed by said act.

Johnson, Reverdy, Attorney-General. June 28, 1850. (No claim.) O. W. and N. Vol. 5, p. 237. M. and M., p. 500.

(5) Under the act of June 13, 1858 [section 2444, R. S.], a warrant issued after the death of a soldier, no widow surviving, becomes vested in the heirs general.

Thompson, J., Secretary. Mar. 24, 1859. B. L. Wt. No. 70,278-160-1855. Stiles, Jacob. O. W. and N. Vol. 4, pp. 90, 91.

(6) A warrant is void if issued after death of claimant.

[See section 2444, R. S.]

Delano, C., Secretary. Dec. 11, 1874. B. L. Wt. No. 110,846-160-1855. Laws, Panser. Vol. 4 p. 412.

See *Instructions*: Stuart, A. H. H., Secretary. Dec. 26, 1851. O. W. and N. Vol. 4, p. 53.

138. WARRANTS, TITLE TO SATISFIED, AND RIGHT TO REISSUE LOST.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

(1) A warrant having been issued to the soldier in his lifetime, the fact of his having been subsequently defrauded of the warrant gives the widow no claim to a second warrant.

Ewing, T., Secretary. March 14, 1850. B. L. Wt. No. 23,283-160-1847. Volk, Edward. O. W. and N. Vol. 4, p. 15.

(2) After the issue of a patent the Government has no further control or responsibility in the matter, and no additional claim for bounty-land can be considered.

Persons who have received bounty-land under any previous act are not entitled under act of September 28, 1850. [Section 2418, R. S.]

Stuart, A. H. H., Secretary. Jan. 7, 1851. (No claim found.) O. W. and N. Vol. 4, p. 42.

(3) In the case of soldiers who have sold their discharges, an act which the law declares illegal, the Department long since determined not to interfere, but to leave the rights of the parties to be adjudicated by the courts.

Stuart, A. H. H., Secretary. May 24, 1851. (No claim found.) O. W. and N. Vol. 4, pp. 50, 51.

BOUNTY LAND—Continued.

(4) Where soldier disposed of his discharge in violation of law, and subsequent to his death warrant was granted, and by a fraudulent assignment it was sold and located and a patent was issued for the land: *Held*, that the application, by heir, for a new warrant should be rejected. Decision of the Department of April 17, 1851, adhered to—that the subject should be left for judicial settlement; and that the heir of soldier cannot have a better title than the soldier himself would have if surviving.

Schurz, C., Secretary. June 16, 1877. B. L. Wt. No. 40,743-160-1847. Flynn, Bernard. Vol. 5, p. 133, and Schurz, C., Secretary. Oct. 15, 1877. B. L. Wt. No. 46,229-160-1847. Glennon, Patrick. Vol. 5, p. 249.

See PARAGRAPH 129 THIS TITLE.

139. WARRANTS, WITHHOLDING OF, BY ATTORNEY.

(For laws, see Title Fees of Agents and Attorneys.)

140. WARS AND LOCAL DISTURBANCES.

See WARS, LOCAL DISTURBANCES, ETC.

141. WIDOWS.**Section 2424, Revised Statutes.**

In the event of the death of any person for whom provision is made by sections twenty-four hundred and eighteen and twenty-four hundred and twenty, and who did not receive bounty-land for his services, a like warrant shall issue in favor of his widow, who shall be entitled to one hundred and sixty acres of land in case her husband was killed in battle; nor shall a subsequent marriage impair the right of any widow to such warrant, if she be a widow at the time of making her application.

28 Sept., 1850, c. 85, s. 3, v. 9, p. 520.

Section 2428, Revised Statutes.

In the event of the death of any person who would be entitled to a warrant, as provided in section twenty-four hundred and twenty-five, leaving a widow, or, if no widow, a minor child, such widow or such minor child shall receive a warrant for the same quantity of land that the decedent would be entitled to receive, if living on the third day of March, eighteen hundred and fifty-five.

3 Mar., 1855, c. 207, s. 2, v. 10, p. 702; also, 14 May, 1856, s. 6.

Section 2429, Revised Statutes.

A subsequent marriage shall not impair the right of any widow under the preceding section, if she be a widow at the time of her application.

3 Mar., 1855, c. 207, s. 2, v. 10, p. 702.

(For further laws see paragraph 115 this title; see paragraph 76 this title.)

BOUNTY LAND—Continued.**DECISIONS OF THE SECRETARY OF THE INTERIOR.**

(1) Widows must have been so at the date of the passage of the act of 1850 [Sec. 2418, R. S.] to give them title.

Stuart, A. H. H., Secretary. Oct. 29, 1850. (No claim.) M. and M., p. 563.

(2) In the case of an imbecile widow of a soldier, where no guardian has been appointed, the facts required to establish her claim may be shown by the deposition of one or more credible disinterested witnesses.

Stuart, A. H. H., Secretary. Dec. 7, 1850. (No claim.) M. and M., p. 565.

(3) A woman divorced from a second husband (and not again married) is the widow of the first husband, and competent to apply for bounty-land on account of his service.

McClelland, R., Secretary. Aug. 17, 1855. B. L. Wt. No. 5, 316-160-1855. Saunders, Ann, widow of Medkiff, George. O. W. and N. Vol. 4, pp. 110, 119.

See PARAGRAPHS 51 AND (3) 135 THIS TITLE; *see* MARRIAGE, REMARRIAGE, AND WIDOWS.

142. WINNEBAGO DISTURBANCE.

See PARAGRAPH 60 THIS TITLE.

143. WITNESSES.

See PARAGRAPH 51 THIS TITLE, AND WITNESSES, COMPETENCY OF.

BURDEN OF PROOF.**DECISIONS OF THE SECRETARY OF THE INTERIOR.**

1. In all cases of doubt proof of the fact entitling a party to the benefits of the pension laws must be made. The burden of proof is upon the claimant. When facts are established, such presumptions as are justly inferable therefrom and founded on our experience of the connection between the fact proved and that presumed are allowable. These inferences may be certain or probable, as in cases where such matters are referred to the arbitrament of a jury or other triers of the fact in issue.

Widow of Lt. Col. T. T. Vimont, 7th Ky. Cav. Harlan, Secretary. Jan. 26, 1866. Vol. 1, p. 50.

2. In case of an accidental wound by the claimant's own gun, there being no evidence on file to corroborate his statement as to details, it is incumbent upon him to furnish proof to conclusively establish the fact that the wound was received in the line of duty.

Dishong, Morris. App. No. 26,823. Schurz, C., Secretary. Jan. 27, 1880. Vol. 7, p. 189.

See LINE OF DUTY, *par.* 9.

BROTHERS AND SISTERS.**Section 4707, Revised Statutes.**

If any person embraced within the provisions of sections forty-six hundred and ninety-two and forty-six hundred and ninety-three has died since the fourth day of March, eighteen hundred and sixty-one, or shall hereafter die, by reason of any wound, injury, casualty, or disease, which, under the conditions and limitations of such sections, would have entitled him to an invalid pension, and has not left or shall not leave a widow or legitimate child, but has left or shall leave other relative or relatives who were dependent upon him for support in whole or in part at the date of his death, such relative or relatives shall be entitled, in the following order of precedence, to receive the same pension as such person would have been entitled to had he been totally disabled, to commence from the death of such person, namely: First, the mother; secondly, the father; thirdly, orphan brothers and sisters under sixteen years of age, who shall be pensioned jointly: *Provided*, That where orphan children of the same parent have different guardians, or a portion of them only are under guardianship, the share of the joint pension to which each ward shall be entitled shall be paid to the guardian of such ward: *Provided*, That if in any case said person shall have left father and mother who are dependent upon him, then, on the death of the mother, the father shall become entitled to the pension, commencing from and after the death of the mother; and upon the death of the mother and father, or upon the death of the father and the remarriage of the mother, the dependent brothers and sisters under sixteen years of age shall jointly become entitled to such pension until they attain the age of sixteen years, respectively, commencing from the death or remarriage of the party who had the prior right to the pension: *Provided*, That a mother shall be assumed to have been dependent upon her son within the meaning of this section if, at the date of his death, she had no other adequate means of support than the ordinary proceeds of her own manual labor and the contributions of said son or of any other persons not legally bound to aid in her support; and if, by actual contributions, or in any other way, the son had recognized his obligations to aid in support of his mother, or was by law bound to such support, and that a father or a minor brother or sister shall, in like manner and under like conditions, be assumed to have been dependent, except that the income which was derived or derivable from his actual or possible manual labor shall be taken into account in estimating a father's means of independent support: *Provided, further*, That the pension allowed to any person on account of his or her dependence, as hereinbefore provided, shall not be paid for any period during which it shall not be necessary as a means of adequate subsistence.

BROTHERS AND SISTERS—Continued.**DECISIONS OF THE SECRETARY OF THE INTERIOR.****1. Of half blood entitled to same pension as those of full blood.**

Grew, Sarah (guardian). App. No. 136,940. Cox, J. D., Secretary. Sept. 13, 1869. Vol. 2, p. 128.

2. Limitation under section 6, act of July 27, 1868, begins June 6, 1866.

Frazier, George. App. No. 148,019. Delano, C., Secretary. May 27, 1871. Vol. 1, p. 108.

3. Entitled to pension notwithstanding the alleged ability of their stepfather to support them.

Hase, Christian. App. No. 197,759. Delano, C., Secretary. July 2, 1875. Vol. 4, p. 87.

4. Orphans entitled, if dependent, where soldier left a mother, who had remarried prior to his death and who was not dependent upon him for support.

See TITLE OR RIGHT TO PENSION, par. 3.

C.**CANCER.**

See CAUSE OF DEATH.

CARELESSNESS.

See LINE OF DUTY, par. 9.

CAUSE OF DEATH.**DECISIONS OF THE SECRETARY OF THE INTERIOR.****1. Death of soldier partly due to the disability for which he was pensioned, and partly to that which was contracted after service, gives no title to the widow.**

Patterson, Elizabeth. App. No. 222,406. Chandler, Z., Secretary. Aug. 9, 1876. Vol. 4, p. 360.

See INTEMPERANCE.

2. The husband of the claimant was discharged June 18, 1863, and "pensioned on account of chronic diarrhoea and hemorrhoids, and died November 19, 1880, of pneumonia." His widow's claim "was rejected on the ground that the fatal disease was not the result, direct or indirect, of his military service."

In deciding the case, on appeal, the following language is used, viz: "The officer had been a sufferer from chronic diarrhoea contracted in the service, and was at last worn out, and in a dying condition from said disease, and while thus afflicted, it became necessary, in consequence of the disease with which he was suffering, for him to obey the calls of nature, and in so doing he appears to have caught a cold which,

CAUSE OF DEATH—Continued.

with his disease, caused his death in a very short time. That his death was caused by reason of the disease which he contracted while in the army seems beyond any doubt.

“The cold which he caught while performing acts rendered necessary by his disease only precipitated his death a short time, and should not be regarded as having any important bearing on this case.

“It certainly was not wise in him to leave his bed and go out of the house to the privy, but because he did so it should not be regarded as culpable negligence on his part.

“It would be very unjust to deprive the widow or children of a soldier of their right to a pension by reason of what might be termed only an indiscretion on the soldier's part. Construing the pension laws in the broad and liberal spirit which prompted their enactment, the Department is of opinion that the officer's death was caused by reason of a disease which was contracted in the military service and in the line of duty.

“You will, therefore, please adjudicate the applicant's claim upon the views herein expressed.”

Ellis, Isaminda. No. 284,722. Teller, H. M., Secretary. Dec. 4, 1883. Vol. 11, p. 92.

See PNEUMONIA.

3. The decedent was appointed an acting master in the Navy September 28, 1861, and died September 21, 1865, while in the service, of cancer of the stomach and liver. In the decision affirming the rejection of the widow's claim, on the ground that the fatal disease was not due to the service, the following language is used, viz :

“Cancer is a disease which is principally due to a constitutional predisposition. The presumption in most cases of cancer is that the predisposition was the principal cause. The effect of the ordinary causes of disease to which persons in the military or naval service are exposed in developing cancer is not very marked and cannot be determined with any degree of certainty. In this case the officer was not aware of the nature of the disease from which he suffered, and his medical attendants were ignorant of it until it was revealed by the post-mortem examination. The board of naval surgeons, who inquired into the causes of the officer's disease, during his life-time, stated that he himself declined to attribute the conditions causing the dropsy from which he suffered to exposure on duty in the naval service, but refers them rather to continuous residence in malarious climates before serving in the Navy as well as since, and that they adopted this view of the case. It appears from this that the husband of the applicant was conscious that before he entered the service some diseased condition had commenced which caused the dropsy from which he suffered.

“Upon examination of all the evidence, it does not appear to the Department that it is proved that the cancer of which the husband of the

CAUSE OF DEATH—Continued.

applicant died was due to causes of disease to which he was exposed while in the naval service."

Hoffner, Margaret A. No. 2,041 (Navy). Teller, H. M., Secretary. May 8, 1884. Vol. 11, p. 255.

4. The soldier enlisted March 4, 1865, and was discharged July 26, 1865. He made no claim for pension in his life-time, and died January 25, 1880, of cancer. In his widow's claim for pension it was claimed that the cancer was the result of "bloody dysentery" contracted in the service. Her claim was rejected on the ground that "his fatal disease was not the result of chronic diarrhoea or of his military service."

In the decision reversing this action, it is stated as follows, viz: "The evidence in the claim shows that the claimant's husband, the deceased soldier, contracted chronic diarrhoea in the army, that his health was seriously affected by said disease and its results from the date of his discharge to the date of his death.

"The testimony of the soldier's attending physician, Dr. Richards, of Tomah, Wis., tends to show that his fatal disease, cancer, was due to the diseases resulting from his military service. * * *

"The evidence leaves a doubt as to where the soldier's fatal disease came from, and a strong probability, to say the least, that Dr. Richards (the attending physician) is right in his opinion, but the doubt existing, the soldier's widow is entitled to it.

"It is more reasonable to suppose that the soldier's fatal disease was connected, in some manner, with the diseases resulting from his army service than that it was not.

"In claims for pension, when it is shown by satisfactory evidence that a soldier contracted disease or received injuries in the service and line of duty, and, by reason of said disease or injuries, his health becomes reduced to such a low state that he dies of a disease, the origin of which skilled physicians are unable to determine, but which all the facts and surrounding circumstances tend to show that the fatal disease was due to the soldier's enfeebled condition, or else that he was unable to resist the attack of the fatal disease in consequence of his low state of health, resulting from the diseases which he had contracted in the army, the claimant in such a case should not be required to furnish that which in the nature of the case is an impossibility, and a denial of a pension to a claimant under such circumstances would be, in the opinion of this Department, contrary to the spirit and intent of the pension laws."

Schernecker, Mary. No. 265,722. Teller, H. M., Secretary. May 8, 1884. Vol. 11, p. 258.

5. Soldier enlisted July 22, 1863, and was discharged September 13, 1865. He made no claim for pension, and died January 2, 1877. In his widow's claim it was alleged that he was killed on that day "by a tree falling on him; that in consequence of blindness, the result of a disease contracted in the line of duty in the service, he could not see to get out of the way of the falling tree."

CAUSE OF DEATH—Continued.

In deciding the case on appeal, it was held that—

"The law provides a pension for a widow when her husband died by reason of any wound, injury, or disease contracted in the service and line of duty. The expression 'by reason of any wound, injury, or disease,' has been construed by the Department to include certain indirect results of such wound, injury, or disease.

"If the applicant in this case can show that her husband contracted in the service and in the line of duty disease of the eyes which caused such a degree of blindness that his death indirectly resulted from this disability in the manner alleged, she will have a valid claim for pension, and the case should be opened up to allow her to present proof of the facts."

Pyle, Mary J. No. 215,937. Teller, H. M., Secretary. May 20, 1884. Vol. 11, p. 265.

RULINGS OF THE COMMISSIONER OF PENSIONS.**RULING No. 145. November 11, 1885.**

Where a soldier was pensioned from discharge for loss of his left leg near the hip, and for total blindness, and died in 1878 of dropsy, as it appeared from disease of liver, superinduced by his forced condition of inactivity, the Commissioner *held*: That the facts shown are sufficient to give title to the soldier's widow and her claim for pension should be allowed.

Widow of Michael Kessler. Inv. ctf. No. 56,508. Order Book, p. 105.

RULING No. 146. November 12, 1885.

Soldier enlisted October 7, 1861; was discharged October 31, 1864, and filed a claim for pension based upon chronic diarrhœa and rheumatism, June 14, 1880, which was pending on the 15th day of July, 1884, when he died of cancer of the stomach and liver. His widow filed an application for pension on account of his death, February 7, 1885.

In considering the question of pathology involved in the widow's case, Dr. John Campbell, Medical Referee, said, "If we are to recognize the decision of the honorable Secretary of the Interior in the Scherneck case (par. 4 this title), we must admit that this case rests upon even better ground than that upon which that decision was based. The origin and continuance of chronic diarrhœa are clearly shown. A claim for pension for that disease was pending at the date of the soldier's death, the allowance of which was apparently only prevented by that event. Now, then, the discovery is made upon *post mortem* examination that the man had cancer of the stomach and liver, the origin of which dates back to some point in the history of the case, which is altogether indefinite. Suppose, then, no *post mortem* had been made; the pension would have been granted without question. We have only the opinion of Dr. Keeve that cancer existed. He does not relate any facts nor refer to any microscopic examination which would lead to a rational conclusion that he was correct in his opinion.

CAUSE OF DEATH—Continued.

The causes of cancer are so little known that we must be content with ascribing them to a peculiar diathesis of which we know not the origin. It is altogether probable that whatever irritates or inflames the stomach may call into activity this peculiar diathesis or predisposition. All the necessary conditions can safely be said to exist in any case presenting a long and continuous history of chronic diarrhœa. But precisely the same conditions exist also in almost every case of non-malignant fibroid thickening of the coats of the stomach. So well is this recognized that in no case has the question of cancer been raised in this office unless presented in a manner that might be called accidental. The existence of a cancer located within the walls of the abdomen is not easily determined and cannot be more than guessed at during life except by microscopic examination of matter vomited or dejected. After death its determination is made easier by subjecting the morbid tissues themselves to such test. No medical scientist will risk an unqualified diagnosis without that test, though willing generally to give a mere opinion, as in this case. Whatever may have been presented to the surgeon who made the *post mortem* examination nothing has been given as a guide to us except his opinion, and that in the fewest possible words. Such an opinion if given by an examining board would not be accepted as satisfactory. The history of the case gives not even a hint of the cancerous nature of the disease. The case had been adjudicated by the office and the man was only prevented from receiving the pension awarded by his death, and it is now proposed to withhold it from his widow and children upon the strength of this opinion, which, if worthy to be received as of governing force, should be supported by such scientific data as to make the justice of the conclusion absolute. A nodulated tumor is held to be presumptive evidence of cancer, but no tumor of any kind is described, and we are not even told that any existed. As to duration, nothing can be inferred absolutely, as authorities are not wanting to show, as in tubercular diseases, that it may extend over a period of many years. Finally, I submit that no proof has been presented which, medically considered, shows that claimant's husband died of cancer, or upon which a rejection of the claim can be defended."

The Commissioner held as follows:

"A question arises in this case as to the cause of the death of the soldier. The evidence already in the case clearly establishes the fact that diarrhœa originated in the service and line of duty. Furthermore, prior to the soldier's death his own claim for pension had been briefed for admission, because of the diarrhœa. The case being referred to the Medical Referee for his opinion as to whether the cancer was caused by the diarrhœa, he has decided the question in favor of the claimant by a course of reasoning and statement of facts satisfactory to himself and to the Commissioner. The decision in the Scherneck case

CAUSE OF DEATH—Continued.

has no reference made to it for authority. The opinion of the Medical Referee, subject only to revision by the Commissioner, is conclusive in matters relating to the medical status of a case. The conclusion of Dr. Campbell is accepted. The case, if otherwise established, will be admitted."

Widow of Henry Weichert. App. No. 323,513. Order book, p 106.

CERTIFICATES OF DISABILITY.**DECISION OF THE SECRETARY OF THE INTERIOR.**

Copies of certificates of disability cannot be furnished to attorneys or others. This is the uniform practice of the Department.

James Patten. App. No. 174,129. Schurz, C., Secretary. July 3, 1890. Vol. 7, p. 420.

See ADVERSE RECORD.

CERTIFICATES OF EXAMINING SURGEONS.

See EXAMINING SURGEON'S CERTIFICATES.

CERTIFICATES OF PENSION.

See PENSION CERTIFICATES.

CIVIL EMPLOYÉS.

See CIVILIANS IN SERVICE OF A QUASI-MILITARY CHARACTER AND SERVICE PENSIONS, WAR OF 1812.

CIVIL ENGINEERS IN THE NAVY.

See NAVY.

CIVIL SURGEONS.

See CIVILIANS IN SERVICE OF A QUASI-MILITARY CHARACTER, par. 2.

CIVILIANS IN SERVICE OF A QUASI-MILITARY CHARACTER.**Section 4692, Revised Statutes.**

Every person specified in the several classes enumerated in the following section, who has been since, the fourth day of March, eighteen hundred and sixty-one, or who is hereafter disabled under the conditions therein stated, shall, upon making due proof of the fact, according to such forms and regulations as are or may be provided in pursuance of law, be placed on the list of invalid pensioners of the United States, and be entitled to receive, for a total disability, or a permanent

CIVILIANS IN SERVICE OF A QUASI-MILITARY CHARACTER—Cont'd.

specific disability, such pension as is hereinafter provided in such cases ; and for an inferior disability, except in cases of permanent specific disability, for which the rate of pension is expressly provided, an amount proportionate to that provided for total disability ; and such pension shall commence as hereinafter provided, and continue during the existence of the disability.

Sec. 1, 3 Mar., 1873. Sec. 1, 14 July, 1862.

Section 4693, Revised Statutes.

The persons entitled as beneficiaries under the preceding section are as follows :

First. Any officer of the Army, including regulars, volunteers, and militia, or any officer in the Navy or Marine Corps, or any enlisted man, however employed, in the military or naval service of the United States, or in its Marine Corps, whether regularly mustered or not, disabled by reason of any wound or injury received, or disease contracted, while in the service of the United States and in the line of duty.

Sec. 1, 3 Mar., 1873. Sec. 1, 14 July, 1862. Sec. 11, 4 July, 1864. Sec. 10, 14 July, 1862.

Second. Any master serving on a gunboat, or any pilot, engineer, sailor, or other person not regularly mustered, serving upon any gunboat or war vessel of the United States, disabled by any wound or injury received, or otherwise incapacitated, while in the line of duty, for procuring his subsistence by manual labor.

Resolution, 16 July, 1862.

Third. Any person not an enlisted soldier in the Army, serving for the time being as a member of the militia of any State, under orders of an officer of the United States, or who volunteered for the time being to serve with any regularly organized military or naval force of the United States, or who otherwise volunteered and rendered service in any engagement with rebels or Indians, disabled in consequence of wounds or injury received in the line of duty in such temporary service. But no claim of a State militiaman, or non-enlisted person, on account of disability from wounds or injury received in battle with rebels or Indians, while temporarily rendering service, shall be valid unless prosecuted to a successful issue prior to the fourth day of July, eighteen hundred and seventy-four.

Sec. 1, 3 Mar., 1873. Sec. 2, 4 July, 1864. Sec. 11, 27 July, 1863.

Fourth. Any acting assistant or contract surgeon disabled by any wound or injury received or disease contracted in the line of duty while actually performing the duties of assistant surgeon or acting assistant surgeon with any military force in the field, or in transitu, or in hospital.

Sec. 1, 3 Mar., 1873. Sec. 2, 3 Mar., 1865.

Fifth. Any provost-marshal, deputy provost-marshal, or enrolling-

CIVILIANS IN SERVICE OF A QUASI-MILITARY CHARACTER—Cont'd.

officer disabled, by reason of any wound or injury received in the discharge of his duty, to procure a subsistence by manual labor.

Sec. 1, 3 Mar., 1873. Sec. 1, 25 July, 1886.

Section 4741, Revised Statutes.

The officers and seamen of the revenue-cutters of the United States, who have been or may be wounded or disabled in the discharge of their duty while co-operating with the Navy by order of the President, shall be entitled to be placed on the Navy pension-list, at the same rate of pension and under the same regulations and restrictions as are provided by law for the officers and seamen of the Navy.

Act 18 April, 1814.

DECISIONS OF THE SECRETARY OF THE INTERIOR, &C.**1. ADDITIONAL PAYMASTERS.**

An *additional paymaster* is regarded as having been in the civil branch of the service and is "entitled to his pension for the period he was in the military service as such."

George B. Ely. Ctf. No. 10,136. J. P. Usher, Secretary. Dec. 10, 1864. Vol. 1, p. 81, and decision in same case of S. J. Kirkwood, Secretary, Aug. 15, 1881, affirming above decision; also opinion of C. Devens, Attorney-General, Feb. 24, 1881. Vol. 8, p. 161.

RULING OF THE COMMISSIONER OF PENSIONS.

RULING No. 3. November 8, 1869.

Additional paymasters and their widows are entitled to pension.

2. CIVIL SURGEONS.

A *civil surgeon* detailed by the governor of a State at the request of the Surgeon-General is not entitled to the benefits of the pension laws.

Charles Hodge, Jr. App. No. 195,352. C. Delano, Secretary. Feb. 24, 1875. Vol. 3, p. 485.

3. COMMISSARY DEPARTMENT, EMPLOYÉS OF.

See PARAGRAPH 12 THIS TITLE.

4. CONTRACT SURGEONS.

A *contract surgeon* is entitled, if the disease be contracted in line of duty:

- (1) While actually performing medical duty with a military force in the field;
- (2) While proceeding from one point to another under orders, or,
- (3) While on duty in hospital.

When he is ordered to go to a given point for duty and has set about his preparations to do so, his transitu has begun.

Case of the mother of S. S. Bicknell. No. 223,567. Attorney-General. Sept. 26, 1882. Vol. 9, p. 290.

[NOTE.—This decision, being adopted by the Department, was a reversal of the decision of Teller, Secretary, May 20, 1882, in same case. Vol. 9, p. 214.]

CIVILIANS IN SERVICE OF A QUASI-MILITARY CHARACTER—Cont'd.**RULINGS OF THE COMMISSIONER OF PENSIONS.****RULING No. 2. February 9, 1870.**

Acting assistant surgeons, serving in garrisons, towns, and general hospitals at the front, established to accommodate the sick and wounded, should be considered as serving in the field.

RULING No. 5. December 5, 1871.

Act of July 27, 1868, section 2, does not apply to contract surgeons.

RULING No. 68. October 17, 1881.

Pensioners or persons entitled to a pension who have been or may be employed by the War Department as contract surgeons, do not loose their title to a pension during or by reason of such employment.

5. DEPUTY PROVOST-MARSHALS.

See PROVOST-MARSHALS, par. 11, THIS TITLE.

6. HOSPITAL MATRONS.

"No persons can be regarded as enlisted in the Army who are not referred to in the law relating to the organization of the Army as enlisted persons. There is no law authorizing the enlistment of hospital matrons. The law authorizes the employment of such persons. They are therefore mere employés of the hospital department. They are not enlisted and are not in any class of persons for whom army pensions are provided."

Higgins Isabella. No. 361,490. Teller, H. M., Secretary. May 28, 1883. Vol. 10, p. 446.

7. MEDICAL CADETS.

The Adjutant-General, United States Army, holds that medical cadets who were authorized by act of August 3, 1861, for the late war only, were enlisted men in the Army. The Pension Office, acting upon that decision, has allowed pensions in such cases.

See case of Charles H. Fisher. Ctf. No. 219,154. Adjutant-General, U. S. A. Sept. 12, 1883. O. W. and N. Vol. 3, p. 110.

8. PACK-HORSE MEN, WAR OF 1812.

See SERVICE PENSIONS, WAR OF 1812, par. 5.

9. PRIVATEERSMEN, WAR OF 1812.

See SERVICE PENSIONS, WAR OF 1812, par. 5.

10. PROFESSORS IN THE MILITARY ACADEMY.

(1) "The professor of French in the Military Academy belongs to the regular military establishment of the United States, but he is not entitled to pension for disability contracted in the performance of his duty for the reason that he is not a commissioned officer or an enlisted man, or a member of any one of the classes of persons enumerated in

CIVILIANS IN SERVICE OF A QUASI-MILITARY CHARACTER—Cont'd

section 4693 of the Revised Statutes as entitled to pension, nor is he included in any class of persons for whom pension is provided by any other portion of the law, nor is a rate of pension provided for him by section 4695." Consequently there is "no provision for his widow."

* * * "The provision in section 4695, fixing the rate of pension for all other persons whose rank or office is not mentioned in said section, must be construed to refer to those persons who are included in some one of the classes mentioned in 4693, and those for whom provision is expressly made in some other portion of the pension law."

Emily Agnel, No. 279,418. Kirkwood, S. J. Feb. 20, 1882. Vol. 6, p. 107.

(2) The professors in the Military Academy are, within the meaning of the pension laws, commissioned officers of the Army of the rank represented by the pay and allowances.

Emily Agnel. No. 279,418. Toller, H. M., Secretary. May 27, 1882. Concurring in opinion of Attorney-General, May 12, 1882. Vol. 9, pp. 232-3. (Overruling decision of Feb. 20, 1882, in the same case.)

RULING OF THE COMMISSIONER OF PENSIONS.

Where the pension law does not provide a rate of pension for any officers of the Army or Navy, the rate shall be that provided for the rank to which such officers were most nearly assimilated by their pay and allowances.

Widow of Wm. Walters. No. 298,483. O. P. G. Clarke, Commissioner. Dec. 19, 1884. O. W. and N. Vol. 3, p. 295.

11. PROVOST-MARSHALS AND DEPUTY PROVOST-MARSHALS.

(1) A *provost-marshal* is regarded as being in the military service of the United States, having held the rank and received the pay and emoluments of captain of cavalry, and as such must be deprived of pension during said period of service, under section 4724, Revised Statutes.

Bolenius, A. W. Ctf. No. 86,828. Schurz, C., Secretary. Sept. 22, 1877. Vol. 5, p. 232. Affirming decision of Cox, J. D., Secretary, in same case, dated May 31, 1869.

(2) *Provost-marshals* of Congressional districts during the late rebellion were in the civil branch of the service, and, if pensioned, are entitled to pension during the time they held such office.

Campbell, H. S. Ctf. No. 139,026. Schurz, C., Secretary. Mar. 2, 1881. Vol. 8, p. 160. (See, also, opinion of Attorney-General affirming above decision, vol. 8, p. 161. Sec. 4724, Revised Statutes.)

(3) *Deputy provost-marshals* are not authorized to appoint assistants.

Reynolds, John W. App. No. 176,218. Cowen, B. R., Acting Secretary. Aug. 9, 1873. Vol. 1, p. 488.

(4) A *deputy provost-marshal* is not an officer of the Army, Navy, or Marine Corps, and pension cannot be withheld, under section 4724, Revised Statutes, while holding such office.

Muthersbough, Daniel B. Ctf. No. 61,895. Schurz, C., Secretary. Dec. 24, 1879. Vol. 7, p. 93.

CIVILIANS IN SERVICE OF A QUASI-MILITARY CHARACTER.—Cont'd.

(5) Neither *prorost-marshals* nor *deputy prorost-marshals* are entitled to pension on account of disease, contracted in the discharge of duties as such, nor does their death from such disease confer title to pension on their widows. The word "injury," as used in the fifth paragraph of section 4693, Revised Statutes, does not have the same significance as the word "disability," but means a traumatic injury.

Davenport, Ida. No. 300,829. Teller, H. M., Secretary. Dec. 29, 1884. Vol. 11, p. 405.

12. QUARTERMASTER'S AND COMMISSARY DEPARTMENTS, EMPLOYÉS OF.

(1) Employés of Quartermaster's and Commissary Departments are not pensionable under section 9, act of July 4, 1864. (Law expired by limitation July 4, 1867.)

John E. Herbert. App. No. 168,792. B. R. Cowen, Acting Secretary. Nov. 11, 1872. Vol. 1, p. 214.

(2) The applicant does not claim that he was enlisted in the Army or Navy, but that he was an employé in the Quartermaster's Department, and while so employed, about February 14, 1864, on board the schooner "Martha Nichols," which was engaged in carrying supplies off Cape Hatteras "he was kicked by a horse in the back and hip and that such injury had resulted in paralysis."

The following language is used in the decision disposing of the case on appeal, viz:

"The claim was rejected by your Office on the ground that the applicant was an employé in the Quartermaster's Department and not an enlisted man in the military or naval service of the United States.

"The applicant refers to the second paragraph of section 4693 of the Revised Statutes as, in his opinion, providing for his case. That portion of the section provides pension for 'any master serving on a gunboat, or any pilot, engineer, sailor, or other person not regularly mustered, serving upon any gunboat or war vessel of the United States, disabled by any wound or injury received, or otherwise incapacitated while in the line of duty for procuring his subsistence by manual labor.'

"It has uniformly been held by this Department that the expression 'gunboats and war vessels' was intended to include such vessels only as were armed for battle, and not such as were employed by the Army for transporting supplies."

Bentley, Benjamin A. No. 489,829. Joslyn, M. L., Acting Secretary. April 7, 1884. Vol. 11, p. 189.

(3) The son of the claimant was employed as steersman on the U. S. tug "Dime," and was killed by the explosion of that vessel May 27, 1865.

Her claim for pension was rejected on the ground that the decedent was never mustered into the military service of the United States, but, at the time he was killed, was an employé in the Quartermaster's Department.

CIVILIANS IN SERVICE OF A QUASI-MILITARY CHARACTER—Cont'd.

In deciding the case on appeal the following language is used, viz :
 "The appellant bases her claim on the tenth section of the act of July 14, 1862 (now the second paragraph of section 4693, R. S.), which extends the benefits of the pension laws to 'persons not regularly mustered, serving upon any gunboat or war vessel of the United States.'

"In construing this section the Department has uniformly held that by 'gunboat or war vessel' is meant an armed vessel designed for battle. The 'Dime,' upon which the appellant's son served, was not such a vessel, but a steam tug or dispatch boat in the employ and under the direction of the Quartermaster's Department.

"The appellant has, therefore, no title to pension under the law, and the action of your Office is affirmed."

Burt, Cynthia. No. 192,481. Teller, H. M., Secretary. April 19, 1884. Vol. 11, p. 213.

13. REVENUE MARINE SERVICE.

Persons attached to the *Revenue Marine Service* are not entitled to the benefits of the pension laws unless they were wounded or disabled while co-operating with the Navy under the orders of the President.

Alexander W. Rowell. Navy No. 3,385. Charles F. Gorham, Acting Secretary. Aug. 23, 1876. Vol. 4, p. 377.

14. TEAMSTERS, WAR OF 1812.

See SERVICE PENSIONS, WAR OF 1812, *par.* 5.

15. WAITERS, WAR OF 1812.

See SERVICE PENSIONS, WAR OF 1812, *par.* 5.

See GUNBOAT, RAM FLEET, AND MISSISSIPPI MARINE BRIGADE, *par.* 3, 4.

CLAIMANTS' STATEMENTS.**DECISIONS OF THE SECRETARY OF THE INTERIOR.**

1. A claimant's statement as to soundness in application for life insurance not a bar to pension.

See SOUNDNESS.

2. A claimant's statement under oath in civil suit that he had recovered from the disability for which he was pensioned does not deprive him of future pension for said disability if the same still continues.

See SOUNDNESS.

3. Claimants' statements in claims for reimbursement should be corroborated by the testimony of two credible witnesses.

[NOTE.—This does not relieve claimants from the pains and penalties of perjury, otherwise many might be led to commit that offense.]

See REIMBURSEMENT.

CLAIMS FOR PENSION FOR DISEASE FILED SUBSEQUENT TO JUNE 30, 1880.**ORDER OF THE COMMISSIONER OF PENSIONS.**

ORDER No. 92. December 21, 1882.

All claims for disease filed since June 30, 1880, or hereafter filed, in which the report of a medical examination shows no disability, shall be rejected on that ground. *Provided*, that where satisfactory evidence has been, or shall be filed, showing a disability since the filing of the application, the claimants shall be again ordered before a board of surgeons, or if not practicable, before a single surgeon, and if such report is adverse, such cases shall be rejected as stated.

COHABITATION.

See **MARRIAGE, REMARRIAGE; also, ADULTEROUS COHABITATION, ACT OF AUGUST 7, 1882.**

COLORED PERSONS, SLAVES.

Section 4723, Revised Statutes.

All colored persons who enlisted in the Army during the war of the rebellion, and who are now prohibited from receiving bounty and pension on account of being borne on the rolls of their regiments as "slaves," shall be placed on the same footing, as to bounty and pension, as though they had not been slaves at the date of their enlistment.

Sec. 1, 3 Mar., 1873. An independent act; see page 601, vol. 17, Statutes at Large.

COLORED PERSONS, MARRIAGE OF.

See **MARRIAGE OF COLORED PERSONS, MINORS OF COLORED SOLDIERS, AND DEPENDENT RELATIVES OF COLORED PERSONS.**

COMMENCEMENT OF PENSIONS FOR NEW DISABILITIES.

See **NEW DISABILITIES.**

COMMENCEMENT OF MINORS' PENSIONS.

See **MINORS, COMMENCEMENT OF PENSIONS TO.**

COMMENCEMENT OF WIDOWS' PENSIONS.

See **WIDOWS, COMMENCEMENT OF PENSIONS TO.**

COMMISSARY DEPARTMENT, EMPLOYES OF.

See **CIVILIANS IN SERVICE OF A QUASI MILITARY CHARACTER, par. 12.**

COMMISSIONER.*See RANK.***COMMISSIONER OF PENSIONS.****Section 470, Revised Statutes, chapter five.**

"There shall be in the Department of the Interior a Commissioner of Pensions, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be entitled to receive a salary of four thousand dollars a year."

Sec. 1, 2 Mar., 1833; secs. 1, 2, 3, 4, 3 Mar., 1835; 3 Mar., 1837; sec. 1, 2, 3, 4, 4 Mar., 1840; 20 Jan., 1843; sec. 1, 14 Jan., 1846; sec. 1, 19 Jan., 1849; sec. 3, 3 Mar., 1873.

Section 471, Revised Statutes.

"The Commissioner of Pensions shall perform, under the direction of the Secretary of the Interior, such duties in the execution of the various pension and bounty-land laws as may be prescribed by the President."

Sec. 1, 2 Mar., 1833; sec. 2, 3 Mar., 1835; sec. 2, 3 Mar., 1837; sec. 2, 4 Mar., 1840; sec. 4, 4 Mar., 1840; sec. 2, 20 Jan., 1843; 19 Jan., 1877.

Section 472, Revised Statutes.

* * * "And in case of death, resignation, absence, or sickness of the Commissioner, his duties shall devolve upon the Deputy-Commissioner until a successor is appointed, or such absence or sickness ceases." * * *

Sec. 29, 3 Mar., 1873.

Section 473, Revised Statutes.

"The Commissioner of Pensions is authorized, with the approval of the Secretary of the Interior, to appoint a person to sign the name of the Commissioner to certificates or warrants for bounty-lands, and certificates or warrants so signed shall be as valid as if signed by the Commissioner."

20 Feb., 1856.

OPINION OF THE ATTORNEY-GENERAL, dated April 28, 1882.

"I understand that chapter five, under the head of 'Department of the Interior,' in the Revised Statutes, places the entire administration of the pension laws in the control of that Department, and that section 471 designates the Commissioner of Pensions as the officer whose special duty it is under the direction of the Secretary to administer and carry into execution these laws. He shall perform, to use the language of the statute, 'such duties in the execution of the various pension and bounty-land laws as may be prescribed by the President.' By which, I understand, that the Commissioner of Pensions is the officer provided by law, in whose hands the President, as the Executive head of the Na-

COMMISSIONER OF PENSIONS—Continued.

tion, shall place this part of his administration, to wit: the execution of the pension and bounty-land laws."

* * * * *

"*Pension agents* are officers of the Department of the Interior, and take their instructions from the Commissioner of Pensions—sections 4779, 4784, 4785, R. S. There is no allusion in any of the pension laws to the accounting officers of the Treasury as having any authority to construe those laws, or to direct the pension agents as to the amount that shall be paid to any class of pensioners, or to whom pensions shall be paid. This is matter for the supervision and instructions of the Commissioner. The certificate and his orders as to its payment are binding upon the Comptroller and Auditor.

If a payment has the authority of the Commissioner of Pensions, and especially if it has the sanction of the Secretary of the Interior, the decision is final. For the jurisdiction of the whole matter is in these officers.

The duty of the accounting officers in respect to pensions is to audit the accounts relating to them, and to certify the balances. See section 277, Revised Statutes. But this does not require that they shall take from the Commissioner of Pensions the jurisdiction with which the law clothes him, to construe and administer the pension laws, or to interfere with his instructions to pension agents. On the contrary, they are bound to conform to his decisions."

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. The duties of the Commissioner of Pensions are not analogous to those of the (Third) Auditor. The former is authorized to carry into effect the pension laws, which authority involves not only the power to grant pensions to those entitled to receive them, but to withhold them from those not so entitled, under such rules and regulations as may be prescribed. He is a quasi-judicial officer, and acts judicially, and is of necessity required to exercise judgment and discretion. He is authorized and required by law to readjust rates of pension and to suspend payment upon certificates when the right to a pension has ceased or does not exist.

This power has always been construed to include the correction of errors in adjudicated cases to the extent of striking them from the rolls.

Catherine Harris. Ctf. No. 164,180. C. Delano, Secretary. Dec. 1, 1874. Vol. 3, p. 280.

2. Is not to judge the sufficiency of evidence filed to change record in another Department.

Wolcott, W. A. Delano, C.. Secretary. Apr. 13, 1875. Vol. 4, pp. 4-10.

3. Pursuant to section 4739, Revised Statutes. Whenever it shall be discovered that a pension has been granted illegally, or through false or

COMMISSIONER OF PENSIONS—Continued.

fraudulent representations, the papers in the case should be submitted, by the Commissioner of Pensions, to the Department for appropriate action.

Instructions: Chandler, Z., Secretary. Jan. 22, 1876. Vol. 4, p. 183.

4. Has authority to prescribe a fee less than that agreed upon between claimant and attorney.

Smith, J. W. Chandler, Z., Secretary. Oct. 27, 1876. Vol. 4, p. 436.

RULING OF THE COMMISSIONER OF PENSIONS.**RULING No. 64. December 4, 1877.**

It is not competent for the Commissioner of Pensions to dispute the service of a claimant whose service is established under the provisions of the act of Congress approved March 25, 1862, entitled "An act to secure to the officers and men actually employed in the Western Department, or Department of Missouri, their pay, bounty, and pension"; and of joint resolution No. 51, approved July 12, 1862.

ORDER OF THE COMMISSIONER OF PENSIONS.**ORDER No. 8. July 12, 1871. (Old No. 41.)**

All cases wherein a doubt exists as to whether the disability or death was received while in line of duty shall be referred to the Commissioner for action.

COMPETENCY OF WITNESSES.

See WITNESSES, COMPETENCY OF.

COMMUTATION FOR ARTIFICIAL LIMBS.

See ARTIFICIAL LIMBS.

CONFIDENTIAL COMMUNICATIONS.

See ABSTRACTS.

CONFIDENTIAL EVIDENCE.

See ABSTRACTS.

CONGRESS.**DECISIONS OF THE SECRETARY OF THE INTERIOR.**

1. Opinion of, in debate, should be regarded in construing the pension law.

Frerer, Charles. Smith, C. B., Secretary. Nov. 22, 1861. Vol. 1, p. 32.

2. Has power to grant pensions to persons not possessed of the necessary qualifications under the general pension law.

Hensley, Ann. Chandler, Z., Secretary. Apr. 7, 1876. Vol. 4, p. 258.

CONSTRUCTION OF LAW.**DECISIONS OF THE SECRETARY OF THE INTERIOR.**

1. Pension laws should be construed in the liberal spirit which enacted them.

Vimont, Mary Jane. App. No. 65,251. Harlan, J., Secretary. Jan. 26, 1866. Vol. 1, p. 50.

2. Pension laws in force at time of adjudication governs claim.

Wilber, J. B. App. No. 65,240. Cox, J. D., Secretary. May 14, 1869. Vol. 2, p. 102.

3. Proviso not a separate and independent enactment, but governed by the opening language of the section of which it is a part.

Bellia, Roger. Ctf. No. 74,300. Delano, C., Secretary. Oct. 7, 1873. Vol. 3, p. 34.

4. Invalid claims filed prior to June 6, 1866, subject to provisions of act of March 3, 1865.

Vaughn, F. W. Ctf. No. 50,260. Delano, C., Secretary. Jan. 28, 1875. Vol. 3, p. 446.

5. Joint resolution of March 3, 1871, directing the withholding of certain moneys from deserters, does not apply to pensioners.

Conroy, Jane. Ctf. No. 171,088. Delano, C., Secretary. June 9, 1875. Vol. 4, p. 66.

6. Joint resolution of March 2, 1867, modified by provisions of section 4716, Revised Statutes, so far as the same relates to claims for pensions, specifically excludes all who in any manner aided or abetted the late rebellion.

Instructions: Chandler, Z., Secretary. Jan., 1876. Vol. 4, p. 181.

7. Pension laws passed prior to the rebellion should be construed as discriminating between Army and Navy pensions.

Dickinson, Charlotte. Gorham, Charles F., Acting Secretary. Aug. 24, 1876. Vol. 4, p. 381.

8. Under act of June 18, 1874, which provides a pension of \$50 per month for certain specific disabilities, and for other disabilities resulting in total or permanent helplessness, requiring the personal attention and aid of a second person, it appears to be indicated that it was not intended by the framers of the law that other disabilities than injuries to both hands should be pensioned under this act, or such as are equivalent or nearly equivalent to the loss of both.

Collett, John R. Ctf. No. 27,866. Schurz, C., Secretary. Apr. 17, 1880. Vol. 7, p. 294.

[NOTE.—This decision subsequently reversed.]

RULINGS OF THE COMMISSIONER OF PENSIONS.

RULING No. 26. *June 26, 1871.*

The ninth section of the act of July 27, 1868, does not apply to claims made under the act of February 14, 1871.

RULING No. 27. *September 29, 1874.*

The act approved June 6, 1874, entitled "An act to equalize pensions in certain cases," is construed to refer only to pensioners whose names were upon the roll at the date of the passage of that act, or who were entitled to receive pension at that date. In case of the death or remarriage after June 6, 1874, of a widow pensioned under a special act, the

CONSTRUCTION OF LAW—Continued.

law of that date is not regarded as conferring any right to pension upon the children of the soldier on account of whose service and death such special act was passed.

RULING No. 28. April 6, 1876.

Section 2421 should be read and interpreted in the same sense as if the word "other" stood between the words "any" and "act" in the third line of the section, and such will be the construction in this Bureau.

RULING No. 29. April 19, 1876.

In the case of Rebecca S. Harrison, widow of H. N. Harrison, Navy certificate No. 695.

Chapter 219, "An act to equalize pensions in certain cases," approved June 6, 1874, has no retroactive effect. Additional or increase pensions under that act cannot commence earlier than the date of its passage.

RULING No. 30. January 12, 1877.

Since the promulgation of ruling defining the application of the words "any pensioner" * * * or "any person entitled to a pension," in section 4718, Revised Statutes, the subject-matter of said ruling has been brought to the attention of the Attorney-General, who has decided that the operation of said section should not be restricted to invalid claimants and pensioners.

See Opinions of Attorneys-General. Vol. 15, p. 591.

CONTESTED CLAIMS.**DECISION OF THE SECRETARY OF THE INTERIOR.**

Where the mother and alleged widow of soldier contest for pension, and four investigations by special agent fail to reach a satisfactory result: *Held*, that for the present the Government should incur no further expense, but that the burden of proof rests upon the parties in interest to file evidence to determine the question of title.

McLaughlin, Julia. Ctf. No. 24,271. Schurz, C., Secretary. Apr. 26, 1877. Vol. 5, p. 92.

CONTRACT SURGEONS.

See CIVILIANS IN SERVICE OF A QUASI-MILITARY CHARACTER, *par.* 4.

CORRESPONDENCE.**INSTRUCTIONS OF THE SECRETARY OF THE INTERIOR.**

Communications to the Department should be confined to one subject and properly briefed; the number and nature of inclosures should be specified in the communication, and the inclosures properly briefed.

CORRESPONDENCE—Continued.

The use of file jackets and envelopes will be discontinued as far as practicable. When papers are temporarily withdrawn from the file jackets a memorandum thereof should be made.

Instructions: Schurz, C., Secretary. July 17, 1877. Vol. 5, p. 154.

ORDERS OF THE COMMISSIONER OF PENSIONS.**ORDER No. 2. December 1, 1866. (Old No. 7.)**

That all official communications from this office, whether letters or circulars (and no others are tolerated), must bear the initials of the examiner, and chiefs of divisions must review all official communications and be responsible therefor.

ORDER No. 4. July 10, 1868. (Old No. 18.)

Examiners are directed, in calling upon the Adjutant-General for reports as to the service of officers and enlisted men, to state what is claimed in each case, and set forth explicitly the items of information required.

ORDER No. 5. December 17, 1868. (Old No. 20.)

The habit of many examiners of interpolating the official circulars of this office, containing the signature of the Commissioner, must cease. Any violation of any order relating to this matter will subject the party so offending to the penalty of removal from office.

ORDER No. 9. August 23, 1871. (Old No. 45.)

Full and careful notations of correspondence and requirements sent out to claimants, to attorneys, to Departments, and to others, on the envelope or jacket of the case, as well as the proper date of same, will be strictly required.

ORDER No. 15. February 16, 1872.

All letters of inquiry must be promptly answered, and letters of information acknowledged; but information as to the merits or condition of claims is to be given to the claimant or recognized attorney only, unless by direction of proper authority. To inquiries made by any attorney other than the one properly recognizable, it shall be the duty of the examiner in charge of the claim to respond and state fully why no information concerning the claim can be furnished.

A note of the date and the substance of every letter from this office, referring to any particular claim, must be indorsed upon the jacket containing the papers in said claim.

To secure uniformity, the address of all communications from this office must be given at the close.

ORDER No. 18. March 20, 1872.

No papers filed in any claim in this office shall be sent or delivered to any member of Congress, clerk of any committee, attorney, or other per-

CORRESPONDENCE—Continued.

sons; but all such papers, when called for by any member of Congress, shall be transmitted to the committee by mail or by the clerk, upon order of the chairman of said committee, from the desk charged with such duty.

ORDER No. 19. April 9, 1872.

All communications from this office intended for United States pension agents shall express the full name and post-office address of the agent for whom the communication is designed.

ORDER No. 23. December 4, 1872.

Hereafter each reference by a member of Congress, of inquiries of correspondents or of the member himself, must be answered direct to the member making the reference, unless he requests a response to the correspondent. Each answer to the correspondent, or to the member, as the case may be, must contain a mention of the post-office address of the correspondent, the subject of the inquiry definitely stated, and the number (if there be any) of the claim to which reference is made. In letter to the member the name of the correspondent must also be given. The letter of the member and of the correspondent (if there be any filed) must always be returned. In case a claim has been rejected, the general grounds of rejection will be stated.

ORDER No. 32. May 10, 1875.

Hereafter it is made the duty of the chief of the Mail Division to make a record of Congressional communications received in this office, and such record shall show date of receipt, name of writer, and all communications, after record as above, will be referred to the proper division, accompanied by a slip bearing date of receipt and number of record, which slip will be returned to the chief of the Mail Division when the communication to which it was attached shall have been answered, and shall show date of answer, and by whom answered, and the chief of the Mail Division will make a record of the same. He will also make a daily summary showing the number of letters received and number sent out.

It is especially enjoined upon chiefs of divisions, in case a letter has been improperly referred to any division, to at once return the same to the mail room for correction of reference.

It is also made the duty of the chief of the Mail Division to call the attention of the chief clerk to any communications which may be retained without answer beyond a reasonable time.

Hereafter cases in which evidence or inquiry may be received will not be returned to the files, but on application of such evidence or inquiry will be sent at once to the appropriate division and be retained until properly disposed of.

Chiefs of divisions will see that no undue accumulation of work is permitted on any desk in their respective divisions.

CORRESPONDENCE—Continued.**ORDER No. 33. *June 2, 1875.***

Every person asking information relative to the merits or status of any claim or matter pending before this office is entitled to a respectful reply.

The special attention of chiefs of divisions is therefore directed to the necessity of carefully reviewing all letters emanating from their respective divisions, to see that the same are written in plain and fair handwriting, without abbreviations, interlineations, blots or erasures, official, respectful, and concise in language, and properly punctuated; also that the same contain a full and complete showing of all requirements necessary to a proper adjudication of the claim or matter to which they relate.

ORDER No. 34. *November 6, 1875.*

That in the adjudication of claims for pension or bounty land, the service and signatures of officers or enlisted men who testify as to the origin of disability, or other facts relative to the service of the soldier, should be referred to the proper departments for verification when necessary.

ORDER No. 40. *February 16, 1876.*

In order that no unnecessary labor may be imposed upon the other Departments in complying with requisitions of this office, made in obedience to order No. 34, for the purpose of verifying the statements of officers and enlisted men, and ascertaining their opportunities for obtaining personal knowledge of the facts to which they testify, such inquiries must be confined, as nearly as possible, to the exact dates of the alleged occurrences.

ORDER No. 42. *April 15, 1876.*

All official communications from the Pension Office will hereafter be made in the name of the Commissioner of Pensions, except that correspondence between the Medical Referee and examining surgeons relating to their medical testimony, and the preparation of their certificates may be in the name of the Medical Referee.

ORDER No. 44. *June 13, 1876.*

Every communication from this office to the Second Auditor, calling for information from the files and records of his office, must embody the name, company, regiment, and State to which the soldier belonged, in relation to whom the information therein is requested.

ORDER No. 49. *January 18, 1877.*

Hereafter all communications referred to this office by the Secretary of the Interior, relative to which he does not call for a report, will be transmitted by the appeal clerk direct to the appropriate divisions, the respective chiefs of which will see that the communications are promptly

CORRESPONDENCE—Continued.

acted upon, without, however, as heretofore, transmitting the action through the appeal desk. But if the Secretary calls for the condition of a claim, the letter giving the information shall be transmitted through the appeal desk.

ORDER No. 60. *August 22, 1881.*

Whereas it appears that much of the clerical force of this office is now employed in writing letters which do not materially vary in substance or form, and can be expressed with more uniformity in a printed circular and thus enable the chiefs of divisions to put at work upon the real work of this office, the examination of claims for pension, the force thus employed in writing and rewriting circular letters, it is ordered that chiefs of divisions shall furnish the chief clerk at once with blank forms of such circular letters as are in use or may be desired, with a view to their being printed and used hereafter in all cases where it is possible, the real object of this order being the economy of clerical force and the application of it to the real work of the office.

In answering inquiries as to the status of cases and in all letters calling for verification of records or other additional evidence the communications should be as brief as is consistent with a full and frank answer, stating facts and points to be covered; all effort at mystification or misleading the person written to should be avoided.

Letters will only be written when printed circulars will not answer the purpose.

ORDER No. 73. *January 19, 1881.*

(1) All communications to this office in relation to any claim pending therein, or other matter pertaining thereto, should be addressed to the Commissioner, one of the deputy commissioners, or Chief Clerk. Communications addressed to any other officer or employé of the Bureau in relation to any business of the office must be referred to one of the officers named above, before any action by the office is taken thereon.

(2) All official communications from the Pension Office will be made in the name of the Commissioner or Acting Commissioner of Pensions, except the special correspondence of the Medical Referee, as provided in order No. 42.

(3) All communications written by employés of the Bureau on official business to the Commissioner should be sent to the Chief Clerk's desk.

(4) All questions as to the distribution or discipline of the force of the office should be referred to the Chief Clerk.

ORDER No. 88. *November 24, 1882.*

The following instructions will be observed in making certain calls for evidence:

(1) In calls on the Surgeon-General *in disease cases*, when it appears that the claimant has not stated the names of all the hospitals in which

CORRESPONDENCE—Continued.

he was treated while in the service, add: "Please examine the records of regimental, division, corps, and other hospitals likely to afford evidence as to treatment for the alleged or other disease."

In gunshot wound and injury cases, add: "If the location of the wound (or injury, as the case may be) for which pension is claimed is not shown by the records of the above-named hospitals, please examine all records likely to afford the desired information as to the alleged or any other wound or injury."

(2) Bear in mind that the law now requires that each claimant shall be examined by a board of surgeons, when practicable, before the admission of an invalid claim, and take action accordingly, when a new examination is necessary.

(3) In increase claims, see that the terms of order 37 are strictly complied with. This order is equally applicable to original claims wherein the claimant has been once examined.

(4) In making calls for the testimony of field and line officers, as well as surgeons, give their post-office address when known.

ORDER No. 90. December 12, 1882.

Hereafter all letters of inquiry will be promptly answered, and chiefs of divisions will take the necessary steps to carry into effect this order. It is not intended by this to make duplicate calls for evidence, but to state briefly what the case is waiting for, viz: waiting its turn for consideration, or for the consideration of evidence filed, or waiting replies to calls for evidence, giving date and nature of call.

ORDER No. 91. December 21, 1882.

Hereafter in all cases where it is necessary to ascertain the credibility of witnesses the same shall be done through the Special Examination Division, and in such a manner as may be directed by the Commissioner.

All correspondence with witnesses direct shall be had by the examiners as heretofore.

ORDER No. 94. April 30, 1883.

(1) Whenever a call is made for any evidence, *all* that is required to settle the case must be included, so far as can be foreseen at the time. "Piecemeal" calls are prohibited, except as above.

(2) No second call should be made for the same evidence, except in cases where it is reasonably certain that neither the claimant nor the agent representing him has received the first; and no repeated call should be made for evidence which claimant has shown to be unobtainable.

(3) If, in response to a call of this office, evidence has been offered by a claimant which, in the opinion of the examiner, is incompetent or insufficient, he should fully state the reasons for its non-acceptance, in calling for more to the same point. The claimant is entitled to know

CORRESPONDENCE—Continued.

wherein any evidence he has offered is insufficient, if it is deemed so by the examiner.

(4) In rejecting a case the grounds of rejection should be stated by the examiner with particularity and certainty, both upon the brief and in the notice thereof to the claimant, in order to avoid, as far as possible, future correspondence.

(5) When, in absence of a record of the disability claimed, title to pension depends solely upon parol evidence, the credibility of important witnesses should be ascertained, and if necessary, correspondence had with them direct to develop personal knowledge of facts testified to. Such correspondence should be frank and candid, and invite the fullest particulars from the witness.

COURTS OF RECORD.

The phrase "court of record" is borrowed from the English law and therefore it is proper to look to that law for its meaning. According to that law the mere fact of its keeping a registry of its proceedings is not enough to make it a "court of record."

In the United States a "court of record" is one—

- (1) Expressly made so by the law of the State which creates it;
- (2) Which has been expressly so adjudged by the tribunals of the State;
- (3) Which proceeds according to the course of the common law, with a jurisdiction unlimited in point of amount, keeping a record of its proceedings; or,
- (4) Which has the power of fine and imprisonment.

Courts which proceed according to the course of the civil and canon law, having neither of those attributes, are *not* courts of record, although they may possess a seal and keep a registry of their proceedings.

Andrews' Digest, p. 158, par. 6. *Opinions of Attorneys-General*. Vol. 1, p. 356. *Mayo and Moulton*, p. 346.

DECISION OF THE SECRETARY OF THE INTERIOR.

Declarations, executed before a "recorder of deeds," in the State of Pennsylvania, are not executed in compliance with the provisions of section 4714, Revised Statutes. The office of "recorder of deeds" is not a court of record in that State; nor is the "recorder of deeds" an officer, or his official seal the seal of a court of record.

Henry Keuster, No. 322,441; *Elias B. Lynn*, No. 329,260. *Kirkwood*, S. J., Secretary. Dec. 6, 1881. Vol. 9, p. 19.

CREEK INDIANS IN THE WAR OF 1812.

See SERVICE PENSIONS, WAR OF 1812, par. 13.

D.

DEAFNESS.**Section 4698, Revised Statutes.**

"* * * 'And all persons who, under like circumstances' (in the military or naval service of the United States and in line of duty) shall have lost the hearing of both ears shall be entitled to a pension of thirteen dollars per month from the same date" (June 4, 1872).

Sec. 4, 8 Mar., 1873.

DECISIONS OF THE SECRETARY OF THE INTERIOR.**1. In cases of father's, considered a disability.**

Mandell, George S. App. No. 214,523. Gorham, Charles F., Acting Secretary. Oct. 14, 1876. Vol. 4, p. 422.

2. The provisions of section 4698, Revised Statutes, apply only to persons who were receiving less than \$13 per month for loss of hearing of both ears.

Cronk, Charles W. Ctf. No. 21,150. Chandler, Z., Secretary. July 25, 1877. Vol. 4, p. 100; vol. 5, p. 272.

DEAFNESS, RATES OF PENSION FOR.

See SECTION 4698, R. S., RATES OF PENSION, *par.* 15, AND TABLE OF RATES.

DEATH, CAUSE OF.

See CAUSE OF DEATH.

DEATH, PRESUMPTION OF.

See PRESUMPTION OF DEATH.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

See SECRETARY OF THE INTERIOR.

DECLARATIONS.**Section 4714, Revised Statutes.**

Declarations of pension claimants shall be made before a court of record, or before some officer thereof having custody of its seal, said officer hereby being fully authorized and empowered to administer and certify any oath or affirmation relating to any pension or application therefor: *Provided*, That the Commissioner of Pensions may designate, in localities more than twenty-five miles distant from any place at which such court is holden, persons duly qualified to administer oaths, before whom declarations may be made and testimony taken, and may accept

DECLARATIONS—Continued.

declarations of claimants residing in foreign countries made before a United States minister or consul, or before some officer of the country duly authorized to administer oaths for general purposes, and whose official character and signature shall be duly authenticated by the certificate of a United States minister or consul; declarations in claims of Indians made before a United States agent; and declarations in claims under the provisions of this title relating to pensions for services in the war of eighteen hundred and twelve, made before an officer duly authorized to administer oaths for general purposes, when the applicants, by reason of infirmity of age, are unable to travel: *Provided*, That any declaration made before an officer duly authorized to administer oaths for general purposes shall be accepted to exempt a claim from the limitation as to date of filing prescribed in section forty-seven hundred and nine.

Sec. 21, 3 Mar., 1873; sec. 3, 4 July, 1864.

[NOTE.—Prior to July 4, 1864, declarations executed before officers authorized to administer oaths for general purposes were valid. See Commissioner's order No. 11, under head of *DECLARATIONS, formal and informal.*]

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. Inadmissible if executed before attorney of record.

See ATTORNEYS, par. 1.

2. Defective declarations, made through ignorance, may be corrected by amendment.

Coomes, Samuel E. Ctf. No. 122,168. Delano, C., Secretary. June 17, 1873. Vol. 1, p. 392.

3. Delay in filing, on the part of the attorney, not to be considered by the office in fixing commencement of pension.

Smith, H. W. Ctf. 122,168. Chandler, Z., Secretary. June 19, 1876. Vol. 4, p. 321.

Stevens, Sarah H. App. No. 185,627. Delano, C., Secretary. Nov. 21, 1870. Vol. 2, p. 303.

See ATTORNEYS, par. 5.

4. For original pensions must be executed as prescribed by section 4714, Revised Statutes, and the return of original papers for correction is prohibited.

Brown, John. App. No. 231,456. Bell, A., Acting Secretary. May 14, 1877. Vol. 5, p. 106.

Also, Gillman, Margaret, widow of Gillman, Arthur. Ctf. No. 189,381. Bell, A., Acting Secretary. Oct. 25, 1880. Vol. 8, p. 43.

5. A pension claim filed subsequent to the claimant's death, although executed prior to that event, "cannot be considered a claim pending at the date of his death."

Dale, Mary, wife of Dale, Talbot. Ctf. No. 144,524. (Acts of Jan. 25 and Mar. 3, 1879.) Kirkwood, S. J., Secretary. Apr. 28, 1881. Vol. 8, p. 212.

DECLARATION. DATE OF FILING OF.

When a declaration for pension was left with the Commissioner of Patents prior to June 30, 1880, and by him "filed with the Commissioner of Pensions" July 5, 1880, with the statement that, by reason of

DECLARATION, DATE OF FILING OF—Continued.

sickness, he had been prevented from filing it before, it was held by the honorable Secretary that the application was not "filed with the Commissioner of Pensions" prior to July 1, 1880 (although handed to the Commissioner of Patents, an officer of the Department, prior to that date), and therefore was not exempt from the limitation provided in the second section of the act of March 3, 1879.

Borden, Jane E., No. 279,197. Kirkwood, S. J. Nov. 14, 1881. Vol. 8, p. 473.

DECLARATIONS IN CLAIMS FOR BOUNTY-LAND.**RULING OF THE COMMISSIONER OF PENSIONS.**

RULING No. 7. *January 10, 1870.*

Declarations in claims for bounty-land must be made before an officer of a court of record.

DECLARATIONS IN CLAIMS FOR INCREASE.**RULING OF THE COMMISSIONER OF PENSIONS.**

RULING No. 8. *May 10, 1872.*

Declarations, in claims for increase by persons already pensioned, need not be made before an officer of a court of record, but will be accepted as in due form, if executed before an officer whose authority to administer oaths for general purposes is shown by the certificate of an officer of a court or of any other competent authority.

[NOTE.—Declarations in claims for increase, in which a new disability is alleged as a basis for a claim for pension, must be executed before an officer of a court of record in the same manner as original declarations.]

DECLARATIONS, FORMAL AND INFORMAL.**DECISIONS OF THE SECRETARY OF THE INTERIOR.**

1. Under an informal invalid declaration filed by husband in his lifetime, widow not entitled to accrued pension under section 4718, Revised Statutes.

Horton, James. No. 138,769. Schurz, C., Secretary. May 12, 1880. Vol. 7, p. 345.

Gillman, Margaret. Ctf. No. 189,381. Teller, H. M., Secretary. June 26, 1882. Vol. 9, p. 264.

Wales (now Sherwood), Sarah A. Ctf. No. 194,070. Teller, H. M., Secretary. July 8, 1882. Vol. 9, p. 310.

2. A soldier was discharged September 26, 1865. He filed an informal declaration, or one executed before a justice of the peace, December 20, 1875, and died January 4, 1876, of the disease on account of which he claimed pension, without having filed in this office a formal declaration, or one executed before a court of record, or an officer thereof having custody of its seal.

His widow filed her claim August 23, 1876, "properly executed and formal in every respect." On this statement of facts being referred to the honorable Secretary of the Interior for instructions, it was de-

DECLARATIONS, FORMAL AND INFORMAL—Continued.

cided that "this (soldier's) claim not having been made formal in the life-time of the soldier, the widow has filed a formal declaration in which she is bound to state all the facts necessary to entitle the husband to a pension, and, in addition thereto, facts to establish her rights as a widow; and all these facts she is required to prove. When this is done she is as much entitled to the accrued pension as the husband would be were he living. In other words, if the pending informal claim of the husband was sufficient to have saved the accrued pension to the husband, it is sufficient to save it to the widow."

(Overruling the decisions in the case of Margaret Gillman, Ctf. No. 189,381, decided June 26, 1882, and in the claim, Ctf. No. 194,070, of Sarah Wales, now Sherwood, decided July 8, 1882.)

Beardsley, Willis. No. 211,522. Teller, H. M., Secretary. Mar. 31, 1883. Vol. 10, p. 232.

3. The applicant was discharged January 10, 1865. He filed an informal declaration January 2, 1880, and a formal one October 13, 1881. In his letter of instructions to the Commissioner, the honorable Secretary of the Interior held that "the proviso to section 4714, Revised Statutes, has now no effect whatever, for the reason that the section to which it referred (4709) has been repealed," and that the pension in this case, if allowed, will commence from October 13, 1881, the date of filing the formal declaration.

Burton, Amos. No. 340,004. Kirkwood, S. J., Secretary. Nov. 11, 1881. Vol. 8, p. 474.

Above decision overruled in same case as follows:

4. Where an informal declaration, or one "made before an officer duly authorized to administer oaths for general purposes," has been filed prior to July 1, 1880, and a formal one subsequent thereto, the pension, when allowed, will "commence from the death or discharge of the person on whose account the claim has been, or is hereafter granted, if the disability occurred prior to discharge; and if such disability occurred after the discharge, then from the date of actual disability, or from the termination of the right of party having prior title to such pension"; as provided in the second section of the act of March 3, 1879; and when a like informal declaration has been filed since June 30, 1880, or shall hereafter be filed, and a formal one has been, or shall be, filed subsequent thereto, the pension, if allowed, will commence on the date of the filing of such informal declaration.

Burton, Amos. No. 340,004. Opinton Attorney-General. May 10, 1882. Teller, H. M., Secretary. May 15, 1882. Vol. 9, pp. 195-197, 205, and 212.

[NOTE.—The decision in the Burton case, dated May 15, 1882, has been substantially affirmed in many similar cases since. See case of Lambkins, John B. Ctf. No. 275,919. Jenks, G. A., Assistant Secretary. July 28, 1885.]

5. A discharged soldier filed in this office June 30, 1880, a letter setting forth sufficient facts, if proven, to entitle him to pension. Inadvertently, the letter was jacketed, numbered, and receipted for as an original application for pension. Subsequently, the claimant was re-

DECLARATIONS, FORMAL AND INFORMAL—Continued.

quired to furnish a valid declaration, and on filing one February 8, 1881, and proving his claim, his pension was allowed to commence from that date, in accordance with the proviso to the second section of the act of March 3, 1879.

On appeal, from the refusal of this office to treat the claimant's letter herein referred to as a valid application under the acts relating to arrears of pension, and consequently to commence the pension from the date of the soldier's discharge, it was decided that as the proviso to section 4714 of the Revised Statutes authorized "the acceptance of a declaration, taken as therein set forth (before an officer authorized to administer oaths for general purposes), to exempt a claim from the limitation as to date of filing, fixed by the act of March 3, 1879, it follows that it operates to prohibit the acceptance, for the purpose stated, of an application not executed before an officer so authorized, or not executed (as in this case) before any officer whatever."

Lamoureux, Pardon B. Ctf. No. 213,051. Teller, H. M., Secretary. July 22, 1882. Vol. 9, p. 323.

6. The claimant filed in this office February 9, 1880, what purported to be a declaration for an invalid pension, and it was jacketed and numbered as such and its receipt duly acknowledged, but when reached for action was found to contain only the averments of his service and disability and to which he had taken no oath. He subsequently, as required, filed a new and properly executed application July 27, 1881, and his pension was allowed to commence from that date.

On appeal it was held that "there was no declaration filed in this case prior to July 1, 1880, which can be recognized as a valid application;" that section 4714, Revised Statutes, pointed out the manner in which declarations should be executed, with the proviso as to declarations executed before officers "authorized to administer oaths for general purposes," and that "the proviso referred to authorizing the acceptance of declarations made in a certain manner, must be understood as excluding declarations not so executed."

Harmon, Richard P. Ctf. No. 240,723. Teller, H. M., Secretary. Feb. 23, 1884. Vol. 11, p. 137.

RULINGS OF THE COMMISSIONER OF PENSIONS.**RULING No. 10. April 30, 1877.**

If, prior to the allowance of a pension claim, the declaration having been made before a proper officer is discovered to be in any other material respect defective in its allegations or execution, such informality or omission may be cured by the filing of a new declaration, which shall relate back to the date of filing the original.

After a pension claim has been allowed and the certificate issued, the declaration shall not be impeached for any cause, unless it shall first be shown that the claim was without merit.

DECLARATIONS, FORMAL AND INFORMAL—Continued.**RULING No. 74. May 10, 1882.**

In compliance with instructions from the honorable Secretary, of the 12th and 18th instants, the remedial proviso to section 4714, Revised Statutes, exempting certain informal declarations from the limitation as to date of filing, will be held to apply to all original declarations filed in the office.

RULING No. 95. April 25, 1885.

Where an informal declaration was filed July 5, 1883, the only defect being the absence of the claimant's signature, the jurat in proper form making it plain that the claimant appeared in person and made oath to the contents of said paper, and, subsequently, a formal declaration was filed: *Held*, that pension should be made to commence from date of filing the informal declaration.

Lucius Renfro. App. No. 342,814.

ORDERS OF COMMISSIONER OF PENSIONS.**ORDER No. 10. October —, 1871.**

Declarations will not be regarded as informal where the same purport to have been executed before a clerk of court whose name has been signed by the deputy as deputy.

ORDER No. 11. November 18, 1871.

No declaration or affidavit alleging or claiming title to pension, executed subsequent to July 4, 1864, otherwise than before a court of record, or before some officer thereof having custody of its seal, shall be regarded as an application for pension under the provisions of section 6, act of July 27, 1868. But if executed prior (though not before a court of record) and filed subsequently to July 4, 1864, it may be so accepted.

DECLARATIONS, SUFFICIENCY OF.**DECISIONS OF THE SECRETARY OF THE INTERIOR.**

1. Disease of lungs alleged; discharged therefor; the report of a competent board of examining surgeons, based upon a careful examination of the soldier, showed that he had *disease of heart*, and that what had formerly been supposed to be lung disease was, in reality, disease of heart: *Held*, that it is not to be supposed that claimants should be able to determine the exact nature of a disease located within the chest, whether it be of the lungs or heart, and that the allegation of lung disease should be held to be sufficient to cover any disease of heart which may be found to be due to the service.

Teutcher, Theodore. Ctf. No. 148,470. Schurz, C., Secretary. Mar. 21, 1878. Vol. 5, p. 576.

Linn, George. Ctf. No. 105,157. Schurz, C., Secretary. Oct. 5, 1878. Vol. 6, p. 126.

[NOTE—Under the present practice of the Pension Office claims in which the principle set forth in the above decision is involved are approved by the legal reviewers for "disease of chest," leaving the matter of naming the particular disease to the Medical Referee.]

DECLARATIONS, SUFFICIENCY OF—Continued.

2. A claim for invalid pension, on account of rheumatism, was filed November 18, 1879, and allowed in December, 1881.

In affirming, on appeal, the action of this Office in rejecting a claim for increase of pension on the ground that there had been no increase of disability from the alleged rheumatism, it appeared that the applicant had, in affidavits dated, respectively, November 3, 1879, and March 3, 1880, each executed before an officer authorized to administer oaths for general purposes, and filed in this office during those respective months, alleged disability from chronic diarrhœa, a disease mentioned in his declaration. Thereupon, it was decided that sufficient facts were set forth in the affidavits alluded to to constitute a valid claim for that disability.

Dawson, Jacob R. Ctf. No. 201,162. Kirkwood, S. J., Secretary. Mar. 31, 1882. Vol. 9, p. 146.

3. An applicant for pension for disability from an obscure disease cannot be expected in all cases to assign correctly the cause or causes from which his disability originated. The evidence presented in such cases may be sufficient to show the incurrence of the disability for which pension is claimed, in the line of duty in the service, without proof of the particular cause or the nature of the disease from which disability originated, but evidence on these points should be furnished when it is practicable to do so.

Shepard, James H. Ctf. No. 233,302. Teller, H. M., Secretary. Mar. 7, 1884. Vol. 11, p. 152.

4. The applicant claimed pension for disease of liver and bowels, the results of typhoid fever, shown to have been contracted at the time and place alleged, but from which he recovered in two or three months, and no traces of that disease can now be found.

"About a year after the attack of typhoid fever, he was sick with chronic diarrhœa from which he continued to suffer until he was discharged in consequence of disability produced by that disease." No disability from that disease now exists, but the Medical Referee is of the opinion that a disability therefrom did continue for some time after discharge, and that "should he allege that disability he should have at least a short certificate for it."

On appeal it was held that "where a claim is made for disease of the liver and bowels and the proof shows chronic diarrhœa there is no material variance. This declaration may be regarded, therefore, as if it had said the typhoid fever resulted in chronic diarrhœa."

"Now the evidence presented does not establish any connection between the fever and diarrhœa. Nevertheless such a connection is by no means improbable, and, even if it were, it is an established rule of the Department that an applicant for pension shall not be held to a strictly accurate pathology in setting forth the basis of the claim.

"I think there can be no doubt that the appellant intended to claim pension for chronic diarrhœa and he may have had good reasons for be-

DECLARATIONS, SUFFICIENCY OF—Continued.

lieving it to be a result of the prior attack of typhoid. Whether or not it was a result is a matter of no practical importance.

"You will please allow pension for the disability caused by chronic diarrhoea."

Skaggs, A. M. J. B. No. 174,730. Teller, H. M., Secretary. June 25, 1884. Vol. 11, p. 305.

DECLARATIONS, SUPPLEMENTARY AND EXPLANATORY.**DECISIONS OF THE SECRETARY OF THE INTERIOR.**

1. In an application for invalid pension filed in this office May 11, 1867, pension was claimed on account of a shell wound of *breast* received in battle September 20, 1863. An amended declaration was filed June 26, 1882, in which it was alleged that the wound received September 20, 1863, was in the *head, over the left eye*. The claim for wound of head was allowed, pension commencing June 26, 1882, the date of filing the amended declaration therefor.

It was claimed that the allegation of "wound in the *breast*," contained in the original declaration, was a clerical error, but it was decided, on appeal, that the evidence in the case did not warrant that conclusion, and the action of the office in fixing the date of the commencement of the pension was approved.

Hutchinson, William W. Ctf. No. 216,508. Teller, H. M., Secretary. Apr. 13, 1883. Vol. 10, p. 292.

2. The claimant, Hurst, was discharged May 26, 1865. In his application, filed June 15, 1880, he alleged that in the year 1864 "he was confined in the Andersonville prison for six months, and his health was very much impaired." August 17, 1881, he was called upon "to name the particular disease or cause of disability on account of which he claimed pension." The call was repeated, and February 8, 1884, he filed his affidavit, stating "that the particular diseases contracted in the service, and for which he claims pension, are chronic diarrhoea and rheumatism."

The question to be decided was whether the pension for the diseases named shall commence from the date of discharge or from the date of filing the affidavit, in which they were first alleged in this office.

In determining the question on appeal, the following language is used, viz: "The affidavit filed in response to said call scarcely amounts to an amendment of the original declaration. It is rather in the nature of an explanation of language used in said original declaration, and as such relates to and in effect becomes a part of said declaration. But, conceding that it is an amendment, it is such not for the purpose, nor does it have the effect, of changing the claim in any particular. It simply makes more certain and definite that which before was uncertain and indefinite.

"In pension claims applicants should not be held to the strict rules of pleading which would apply to a skillful attorney practicing before a

DECLARATIONS, SUPPLEMENTARY AND EXPLANATORY—Continued.

court, though even there the rules at common law relative to amendment are liberal and within the discretion of the court.

"Neither should they be held to strict description in technical terms of the disabilities on account of which they seek pension.

"The legal maxim with reference to written instruments that 'that is sufficiently certain which can be made certain' is applicable to declarations for pension.

"Hurst's amendment of explanation, as has been stated, did not change his claim, nor did it add anything thereto.

"The declaration stated that his health was very much impaired while in Andersonville prison. His subsequent affidavit explains by what diseases it was impaired. It thus gave your office data upon which to proceed to intelligent and expeditious action in the claim. That is all."

* * * * *

"The rule that an affidavit, in the nature of an explanation or of an amendment, called for by your office in any pending claim to supply a manifest omission or correct an evident error of statement, shall relate to the declaration and be considered a part thereof, will hereafter govern your office.

"Of course this rule would have no application in a case where the supplemental affidavit would have the effect of entirely changing the character of the claim. Such affidavit must be germane in the declaration."

The pension for chronic diarrhoea and rheumatism was made to commence from date of discharge.

Hurst, Albert G. No. 373,296. Joslyn, M.L., Acting Secretary. July 28, 1884. Vol. 11, p.324.

RULINGS OF THE COMMISSIONER OF PENSIONS.**RULING No. 9. *January 16, 1873.***

The discrepancies existing in the declaration of the deceased invalid cannot be explained or removed by the heirs and legal representatives.

RULING No. 92. *April 16, 1885.*

In two declarations, one filed prior and the other subsequent to the limitation imposed by the acts of January 25 and March 3, 1879, the claimant alleged the same disability, but different manner and cause of origin: *Held*, that the first declaration exempts the claim from the limitation referred to, and pension, if allowed, should be made to commence from date of discharge.

Harn, John. App. No. 286,609.

RULING No. 93. *April 16, 1885.*

In a declaration filed prior to July 1, 1880, claimant alleged "*fever*," simply. In another declaration filed subsequent to said date he alleged rheumatism: *Held*, that the allegation as to "*fever*" in the first declaration.

DECLARATIONS, SUPPLEMENTARY AND EXPLANATORY—Continued.

ration is not sufficient to include rheumatism, and that the pension for the latter disability, if allowed, must be made to commence from the date of filing said second declaration alleging it.

Ortt, Elias. App. No. 335,726.

RULING No. 106. May 25, 1885.

Where, in a declaration filed prior to July 1, 1880, a certain disability was alleged, and, in another declaration filed subsequent to said date, a different disability was alleged: *Held*, that the second declaration could not be accepted as an amendment to the first one, and that the pension for the new disability alleged in said second declaration should be made to commence from the date of filing said second declaration.

Howard, John. Ctf. No. 205,819; also similar ruling in case of D. C. Washburn. Ctf. No. 257,315. June 1, 1881, and case of — Remington. Ctf. No. 280,212.

RULING No. 141. November 9, 1885.

In a case where a party claiming pension as the dependent father of one son found that he could not prove the fact of said son's death and asked leave to amend his original declaration by substituting the name of another son, the fact and circumstances of whose death could be readily established: *Held*, that leave to amend the original declaration be granted. The essential thing in a case of this kind is the claim of dependence. The first declaration, therefore, saves the claim from the operation of the limitation fixed by the statute, and pension, if allowed, will be made to commence on the day after the date of the death of the soldier's mother.

Father of George W. Long. App. No. 327,187. Order book, p. 100.

DEFORMITY.**DECISION OF THE SECRETARY OF THE INTERIOR.**

Deformity should be considered and included in the rate allowed in claims for pensions on account of gunshot wounds of face.

McGonisk, John. Ctf. No. 60,288. Chandler, Z., Secretary. Aug. 12, 1876. Vol. 4, p. 367.

See RATES OF PENSION, par. 17.

DEPENDENCE.**Section 4707, Revised Statutes.**

If any person embraced within the provisions of sections forty-six hundred and ninety-two and forty-six hundred and ninety-three has died since the fourth day of March, eighteen hundred and sixty-one, or shall hereafter die, by reason of any wound, injury, casualty, or disease, which, under the conditions and limitations of such sections, would have entitled him to an invalid pension, and has not left or shall not leave a widow or legitimate child, but has left or shall leave other relative or relatives who were dependent upon him for support in whole or in part at the date of his death, such relative or relatives shall be entitled, in

DEPENDENCE—Continued.

the following order of precedence, to receive the same pension as such person would have been entitled to had he been totally disabled, to commence from the death of such person, namely: First, the mother; secondly, the father; thirdly, orphan brothers and sisters under sixteen years of age, who shall be pensioned jointly: *Provided*, That where orphan children of the same parent have different guardians, or a portion of them only are under guardianship, the share of the joint pension to which each ward shall be entitled shall be paid to the guardian of such ward: *Provided*, That if in any case said person shall have left father and mother who are dependent upon him, then, on the death of the mother, the father shall become entitled to the pension, commencing from and after the death of the mother; and upon the death of the mother and father, or upon the death of the father and the remarriage of the mother, the dependent brothers and sisters under sixteen years of age shall jointly become entitled to such pension until they attain the age of sixteen years, respectively, commencing from the death or remarriage of the party who had the prior right to the pension: *Provided*, That a mother shall be assumed to have been dependent upon her son within the meaning of this section if, at the date of his death, she had no other adequate means of support than the ordinary proceeds of her own manual labor and the contributions of said son or of any other persons not legally bound to aid in her support; and if, by actual contributions, or in any other way, the son had recognized his obligations to aid in support of his mother, or was by law bound to such support, and that a father or a minor brother or sister shall, in like manner and under like conditions, be assumed to have been dependent, except that the income which was derived or derivable from his actual or possible manual labor shall be taken into account in estimating a father's means of independent support: *Provided further*, That the pension allowed to any person on account of his or her dependence, as hereinbefore provided, shall not be paid for any period during which it shall not be necessary as a means of adequate subsistence.

Sec. 12, 2 Mar. 1873; sec. 3, 4, 14 July, 1862; sec. 12, 6 June, 1866; sec. 1, 27 July, 1868.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. Being shown when soldier died, need not be required for period during which no pension can be paid.

Downing, Clarissa. App. No. 309,261. Delano, C., Secretary. June 30, 1874. Vol. 3, p. 253.

2.]

DEPARTMENT OF THE INTERIOR,

Washington, November 13, 1883.

Hon. W. W. DUDLEY,

Commissioner of Pensions:

SIR: I have yours of the 24th ultimo, asking me for a proper and uniform construction of section 4707, Revised Statutes, concerning pensions to dependent mothers.

DEPENDENCE—Continued.

Among all civilized people there is a recognized moral obligation on the son to support his dependent parents. This is not a common-law duty, but is recognized by many of the States by statute. I believe, however, that the statute is rarely resorted to, to compel the discharge of this duty. Public opinion, which is usually more potent than statutory law, would compel such support ordinarily without statutory aid. In most cases the support so given is not the result of statutory law, nor from the fear of public reprobation, but is induced by the love of children for their parents. It is not a violent presumption to suppose that every man who went into the Army would support his parents if their necessities required him to do so. So you may, in the determination of these cases, accept as an established fact, that the loss of a son has deprived the parents of the support of that son in their days of dependence; not simply deprived them of the love and affection which goes so far toward warding off from the declining years of the parent many of the cares and annoyances of such a period, but that substantial and material aid necessary for a comfortable support for old age. The statute has, however, fixed the conditions or circumstances of the parties claiming to be dependent; and your office must be governed by the plain and unambiguous terms thereof; but in dealing with such cases the suggestions I have made may be properly considered in determining what is meant by the terms used in the statute. The statute was enacted to give to dependent relatives some compensation for the damage they had sustained by the loss of the person on whom they did in fact depend, or might depend, under the law, for their support, and must have a liberal construction so as to include all persons that from all the circumstances and words of the statute the legislative mind must have included at the time of its passage.

You ask, *first*, "What construction shall be put upon the term *at date of his death* as regards mother's manual labor as adequate means of support, and the contributions of said son, &c. Is this provision satisfied if, at the date of enlistment of the soldier, claimant received support from the son's labor in whole or in part, notwithstanding the fact that for any reason the soldier did not actually send any of his wages, as a soldier, home to her?"

To this I unhesitatingly answer, yes.

To the *second*, "If the mother supported herself by her own manual labor after soldier's enlistment, must actual contributions from him (or from others not legally bound to aid in her support) after enlistment, be shown in addition to the fact of her own manual labor?"

In most of the States, as before stated, the son is bound by law to support his dependent mother, and in said States it can only be necessary to show that the mother supported herself by manual labor; that fact being established, she is a dependent mother. In States where no

DEPENDENCE—Continued.

such statute exists, the answer is not so easy, and each case must to some degree depend upon the circumstances surrounding it. If the mother had no adequate means of support except her own labor, she was dependent on her son within the spirit of the statute, and the Government becomes liable to pay her a pension, if by actual contribution, *or in any other way, the son had recognized his obligation to aid* in the support of his mother. The words *in any other way*, are broad enough to allow considerable latitude in determining the dependency of the mother, and doubtless it was the intention of Congress to give to the Department the necessary latitude to determine the case on the broad and liberal policy that Congress adopted with reference to the subject. It would be manifestly unjust to allow the mother to receive a pension if she would not be dependent on the son if living; and it is equally unjust to deprive the mother of that substantial aid which she would have received if her son had lived.

Your *third* question is, "The soldier being a minor at date of enlistment and up to date of his death, will the dependence of his mother or father, and the legal obligation to aid in support of either of them be presumed from such minority and necessity for support?"

The son being a minor, the father was entitled to his services, or if not living, the mother was entitled to his services. I think it consistent with the spirit of the statute in such a case to allow the dependent mother or father, as the case may be, a pension.

Your *fourth* question is, "Must actual contributions after enlistment be proven, or may the recognition by the soldier of his obligations to aid in the support of his mother be shown alternatively by letters from soldier expressing his desire or intention to so contribute, to labor for her comfort and maintenance when he returned, or assist otherwise in her support? In what '*other way*' may such recognition of his obligations to aid in her support be shown?"

Actual contributions are not necessary. The expression of a desire or an intention on the part of the soldier is sufficient, and even less than that will suffice; as, for instance, letters expressive of affection and interest in her welfare, may be well considered as falling within the provisions of the law, as otherwise recognizing his obligation to aid in her support.

To your *sixth* question, "A son contributing with wages to support his mother, enlists. He is wounded before sending wages (as a soldier) home. The mother had no adequate means of support other than the ordinary proceeds of her own manual labor, either at the date of the son's enlistment, wounding, or death therefrom. He is discharged, comes home, is totally incapacitated from manual labor and requires regular aid and attendance, and is pensioned at \$50 per month for said disabilities, of which he soon dies. During the reception of his pension

DEPENDENCE—Continued.

he and his mother subsist thereupon. In other words he contributes to her support of *his pension* granted him for his totally helpless condition from his wounds, at the date of his death. Is this a proper contribution at date of his death, and is this mother entitled?"

I answer that the mother in that case and all others of like character will be entitled to a pension.

As to question *seven*, "What are adequate means of support as contemplated by the statute?"

This must depend on the condition in life, and all the circumstances surrounding the case; what will be adequate support for one person may not be for another. In every case it should be sufficient to support the mother in that condition of life in which she has lived.

Very respectfully,

H. M. TELLER,
Secretary.

RULING OF THE COMMISSIONER OF PENSIONS.**RULING No. 12. December 16, 1876.**

A contract made by a soldier to support relatives who may become applicants for pension as dependent relatives under the provisions of section 4707, Revised Statutes, shall not be taken to controvert the allegations of dependence and contribution, unless it is shown that the money or property consideration actually transferred by the claimant as his part of the contract was sufficient to and did render the claimant independent of the soldier's support at the time of the transfer of the same.

A contract for support between a claimant and another, made subsequent to the death of the soldier on account of whom a dependent relative's pension has been granted or is claimed, shall operate to postpone the allowance of the claim, or suspend payment of the pension, if already allowed, for such time as the claimant or pensioner shall receive the support contracted for.

DEPENDENCE. - (FATHERS.)**DECISIONS OF THE SECRETARY OF THE INTERIOR.**

1. Income of \$750 per annum destroys a father's right to pension.
Ellegood, W. W. B. App. No. 99,443. Cox, J. D., Secretary. Dec. 10, 1869. Vol. 2, p. 148.
2. Father's right to pension not forfeited by his remarriage.
Frazier, George. App. No. 148,019. Delano, C., Secretary. May 27, 1871. Vol. 1, p. 108.
3. Mother, independent, not a pensioner and divorced, father is entitled if dependent.
Pottle, Alonzo D. Ctf. No. 157,405. Delano, C., Secretary. Mar. 23, 1874. Vol. 3, p. 143.

DEPENDENCE. (FATHERS)—Continued.

4. Of father not affected by value of second wife's property, provided she leases it.

Marsh, Clement (dependent father). App. No. 191,169. Delano, C., Secretary. Apr. 28, 1875. Vol. 5, p. 267.

5. Father not entitled to pension if wife is a pensioner; he has a contingent right to her pension.

Colony, George. App. No. 147,442. Chandler, Z., Secretary. Sept. 18, 1876. Vol. 4, p. 393.

6. Father in receipt of a salary entitled to pension if employer is under no legal obligations to contribute to his support and regards the payment thereof an act of charity.

Mendall, George S. App. No. 214,523. Gorham, Charles F., Acting Secretary. Oct. 14, 1876. Vol. 4, p. 422.

7. Where father, during period of alleged dependence, received by his earnings, on an average, \$600 per year: *Held*, that it was not a case of dependence within the meaning of the law.

Billharty, Francis, father of Billharty, Francis J. App. No. 181,159. Gorham, Chas. F., Acting Secretary. Nov. 4, 1876. Vol. 4, p. 444.

8. Pension to father commences from date of death of mother. The acts of January 25 and March 3, 1879, do not authorize the payment to the father of any portion of the pension to which the mother would have been entitled had she survived.

McMillan, William. Ctf. No. 183,792. Schurz, C., Secretary. Oct. 10, 1879. Vol. 7, p. 16. (See, also, case of Titus, Isaac S. Vol. 7, p. 365.)

9. Father's claim rejected upon facts presented, showing that at date of son's death claimant was not disqualified for earning a support by his own manual labor, except so far as his habits of intemperance interfered therewith. Rejection affirmed.

Fuller, David R., father of Fuller, Joseph O. App. No. 199,149. Schurz, C., Secretary. Nov. 22, 1879. Vol. 7, p. 77.

10. The law conferring title to pension upon the dependent relatives of a soldier who has died, or may die, by reason of any wound, injury, or disease incurred in the service and line of duty, expressly restricts the benefits thereof to such relatives as were dependent upon him for support, in whole or in part, *at the date of his death*.

There is no provision of existing law where a father or a mother who was in independent circumstances at the time of the soldier's death, but who, in consequence of reverses, sickness, or old age, has since become destitute of the means of adequate support, is entitled to pension.

As there would seem to be no question that the appellant was able to and did support himself and family at the date of the soldier's death and for many years afterward, the rejection of his claim was in accordance with the law, and is affirmed.

Wright, Holmes. No. 243,803. Teller, H. M., Secretary. June 30, 1884. Vol. 11, p. 308.

DEPENDENCE. (FATHERS)—Continued.

11. The soldier enlisted March 12, and died June 15, 1865. His father's claim was filed May 26, 1880, and was rejected on the ground that "he was not dependent for support upon the soldier at the time of the latter's death." The father "was about forty-eight years of age when the soldier died, and was not physically incapacitated for manual labor. But about the time of the soldier's enlistment, and probably in consequence of his enlistment, he began to exhibit slight symptoms of mental derangement. After his son's death these symptoms increased, and he has never been considered entirely sane since." In 1864 he owned a farm of the value of about \$600, "and the annual value of the products, according to the testimony of his neighbors, was not above \$300. As most of the appellant's labor was expended on the farm, it is probable that sum represents very nearly his annual income."

The soldier was about twenty-one years of age when he enlisted and "there were seven other children, none of whom were able to contribute anything to the general support." The father was an industrious man, but being ignorant he intrusted all business affairs to the soldier, and they appear "to have gone wrong from the time of the latter's enlistment."

The soldier contributed freely to the support of the family before and after enlistment.

In disposing of this case on appeal the following language is used, viz: "It will not do to assume that every man who is not physically disqualified for work, is able to earn an adequate support for his family. His ability in that direction depends upon a variety of circumstances, such as the size of the family, the kind of labor he is compelled to perform, and the rate of wages paid for such labor, and to a large extent, upon what is generally termed 'management.'"

"It would seem to require no argument to prove that a family of eight or nine persons could be made to subsist upon a rocky and sterile farm of 25 acres only by incessant toil and skillful management. In this case the skillful management as well as a share of the labor, was supplied by the oldest son (the soldier). The deprivation of his labor alone was probably a very serious matter, since it necessitated the employment of 'hired help' which the place could ill afford, but no 'hired help' could fill his place entirely. If his father depended upon him to attend to the business of the place before his mental derangement commenced, it is evident that after that his need of him must have been far greater."

McCarthy, Patrick. No. 266,145. Joelyn, M. L., Acting Secretary. July 23, 1884. Vol. 11, p. 318.

12. Where the mother of a soldier had, "prior to the breaking out of the rebellion," abandoned her husband and their children (including the soldier) and it appearing from the evidence that the father "had the sole care and custody of the children after being abandoned by their mother," and that he "was dependent upon the soldier for support within the

DEPENDENCE. (FATHERS)—Continued.

meaning of the law granting pensions to dependent parents," it was held, on appeal, that such father was entitled to pension.

Taylor, David. No. 215,028. Lamar, L. Q. C., Secretary. Mar. 24, 1885. Vol. 11, p. 475.

RULINGS OF THE COMMISSIONER OF PENSIONS.

RULING No. 70. November 17, 1871.

"Application of father for pension, filed during the life-time of the mother, cannot be revived after her death. A new application by the father is required."

RULING No. 115. June 8, 1885.

"Where party claiming to be the dependent father of a deceased soldier married a widow possessing a dower right in a good farm and other property, from which he derived a comfortable support during the life-time of his said wife, he should be regarded as having been independent, and his pension should be deducted during said time, but should be restored to him when it is shown he again became dependent after the death of said wife."

Smith, James M. App. No. 262,102.

RULING No. 117. June 11, 1885.

A soldier in receipt of pay, clothing, and rations, according to his rank, may be considered dependent upon certain conditions. If there were a number of dependent children and the father had no other income from which they could be supported, the fact that the father was receiving the pay of a private soldier should not be taken as conclusive evidence of non-dependence. This view is fortified by the historical fact, that during much of the time occupied by the war of the rebellion the currency of the United States, in which the soldiers were paid, was at a very great discount. In estimating the sufficiency of a father's income, those who are legally dependent upon him must be taken into account; they cannot be separated from him. In all cases of this kind there should, of course, be a deduction in accordance with the provisions of sections 4715 and 4724, Revised Statutes.

Cole, Lorenzo D. (dep. father). App. No. 272,041. (Inv. ctf. No. 17,673.)

[NOTE.—See Ruling No. 11 under head of DEPENDENCE, (MOTHERS).]

DEPENDENCE. (MOTHERS).**DECISIONS OF THE SECRETARY OF THE INTERIOR.**

1. Must be proven by soldier's contributions for the support of the party applying. (Reversed.)

Income of \$167.46 does not constitute an independence in case of mothers.

Wilson, Susan. Ctf. No. 85,606. Browning, O. H., Secretary. Jan. 20, 1869. Vol. 2, pp. 89, 130.

DEPENDENCE. (MOTHERS)—Continued.

2. Not affected by husband's drawing a pension for disability if dependence of mother upon son be proved.

Stewart, Mary E. Ctf. No. 455. Cox, J. D., Secretary. Sept. 14, 1869. Vol. 2, p. 130.

3. (1) In mothers' claims, under said act (March 3, 1873), section thirteen,* it must be shown: (1) That the claimant, *at the date of the death of the son*, had no other adequate means of support than the ordinary proceeds of her own manual labor and the contributions of the son or of others *not legally* bound to aid in her support; (2) that the son had recognized his obligations to aid in support of said mother or was by law bound to such support; (3) that the necessity of the pension as a means of adequate subsistence exists.

(2) The requirement is divisible thus: (1) Proof of the absence, at the time of the son's death, of other resources than those of her own labor; (2) proof that besides the son or person or persons (bound as a minor, or as minors, or by any other legal conditions, self imposed or otherwise, to aid in her support) individually or jointly, contributed sufficient to secure to her adequate means of subsistence.

(3) The second requirement is divisible thus: (1) Proof of recognition by the son of his obligation to support the claimant (either by evidence of his oral or written statement) or of regular contributions, either of labor or money, or other things necessary to the subsistence of the mother, before his enlistment, and (unless it be shown that he received no pay) during his service; (2) or that the son, by reason of his minority, or under other legal obligations was bound to (the) support (of) his mother.

(4) The third requirement is the same as the first, extended to the time of application for pension.

Ault, Mary. Ctf. No. 51,844. Delano, C., Secretary. Apr. 17, 1873. Vol. 1, p. 345.

4. Income of \$540 per annum by a mother does not defeat her claim, she being seventy-two years of age, and has two unmarried daughters dependent upon her for support.

Pile, Mrs. Eastwood. Delano, C., Secretary. Mar. 19, 1874. Vol. 4, p. 368.

5. Not established if shown in evidence that mother executed notes to the son for the amount transmitted by him.

Weeks, Maria. Delano, C., Secretary. Aug. 28, 1875. Vol. 3, p. 108.

6. Where claimant, the mother of soldier, prior to son's death; and subsequent thereto, had a home and an average annual income of more than \$300: *Held*, that this was not a case of dependence, and should be rejected.

Tennant, Jane, mother of Tennant, Thos. App. No. 1,171. Bell, A., Acting Secretary. Oct. 24, 1878. Vol. 6, p. 149.

7. Claim of mother rejected upon facts presented showing that prior to son's death, and subsequent thereto, the father was regularly em-

* Now section 4707, Revised Statutes.

DEPENDENCE. (MOTHERS)—Continued.

ployed at a compensation of \$2.25 per day, and that he owned a house in which he and claimant lived. Rejection affirmed.

Allen, Mrs. Electa, mother of Allen, Isaac M. App. No. 233,246. Schurz, C., Secretary. Nov. 24, 1879. Vol. 7, p. 79.

8. Mother's claim, based upon dependence, rejected by the office upon the ground that she was not, at the date of the soldier's death, dependent upon him for support, for the reason that the husband, at the date of the soldier's death, and subsequent thereto, was constantly employed at the maximum wages for the class of workmen to which he belonged, although gradually his wages were somewhat reduced because of advancing years and failing strength. Rejection affirmed.

Tobin, Mrs. Ann, mother of Tobin, Thomas. App. No. 213,646. Schurz, C., Secretary. Jan. 28, 1880. Vol. 7, p. 183.

9. Where the father received an annual income varying from \$600 to \$800, prior and subsequent to the death of his son, together with board for himself and wife: *Held*, that this was not a case of dependence within the meaning of the law, and rejection affirmed.

French, Mrs. E. (Navy—dependent). App. No. 2,423. Schurz, C., Secretary. May 7, 1880 Vol. 7, p. 331.

10. In a mother's claim where the proof showed that prior to and at the date of son's death, the father averaged only about \$250 per year from his earnings: *Held*, that the action of the office was erroneous in rejecting the claim, and that the case was one of dependence within the meaning of the law.

Trimble, Sarah, mother of Trimble, George. App. No. 233,427. Schurz, C., Secretary. Dec. 18, 1880. Vol. 8, p. 80.

11. "There is no authority of law for allowance of pension to a dependent mother for any period prior to the date of death of the son on whose account she is pensioned;" and, he having had no claim for pension on file at the date of his death, her claim for arrears under the provisions of the acts of January 25 and March 3, 1879, was properly rejected.

Westbrook, Sarah A. Ctf. No. 165,620. Kirkwood, S. J., Secretary. Sept. 29, 1881. Vol. 8, p. 426.

12. In the case of a claimant as dependent mother who had a husband living at the date of the son's death, the husband being by law bound to the support of his wife so long as she is not delinquent in her duty towards him, it is necessary in deciding upon her right to pension to take into consideration the sufficiency of the maintenance provided by her husband. If he furnished her an adequate sustenance at the date of the son's death she was *not* dependent; if he failed to do so, wholly or in part, the other requirements of the section (4707, R. S.) being satisfied, she *was* dependent upon the son within the meaning of the law to the extent of such failure.

Morehouse, Mary. No. 155,910. Kirkwood, S. J., Secretary. Feb. 11, 1882. Vol. 9, p. 98.

DEPENDENCE. (MOTHERS)—Continued.

13. The soldier, an only son of a widowed mother, died August 6, 1861, while in the service. Prior to his death he "sent to his mother his payroll and orders to obtain a portion of his pay." At the time of his death all the property she possessed was \$4,500, invested at 7 per cent. interest (\$315 per annum), and some unproductive lands in Texas. She had no other source of income except what she derived from her son. She could derive nothing from the sale of the Texas lands during the war, and has not received since its close to exceed \$1,000 therefrom.

On appeal it was held that, "in view of all the facts in this case, it must be conceded that the income derived from the \$4,500 was inadequate to support the appellant in that condition of life in which she was living prior to and at the date of her son's death," and for that reason the allowance of the claim was directed.

Prescott, Mary A. No. 249,491. Teller, H. M., Secretary. Dec. 26, 1883. Vol. 11, p. 102.

14. The soldier enlisted February 8, 1865, and was discharged July 2, 1865, and died March 18, 1878, of consumption contracted in the service, without having made any application for pension. At the time of his enlistment he was seventeen years of age, and living at home with his parents, whose family consisted of themselves and seven children, including the soldier, ranging from six to twenty-three years of age; that previous to his enlistment he worked at home part of the time, and part of the time he worked out for wages, and his work and wages were appropriated for the common support of the family, and after his enlistment he contributed \$200 or \$300 of his bounty money to the same object.

The property of the father consisted of 80 acres of land, valued at \$500, and personal property assessed at \$400.

From the date of his discharge to that of his death the soldier resided with his parents, and, notwithstanding his disease, was able to and did perform more or less labor, and did, in that way, contribute to the common support of the family. It also appears that for some time previous to his death he became "entirely disabled, by reason of his said disease, from labor, and during this latter period he was supported and taken care of by his father and mother." * * * At the time of his death the entire property of his father "consisted of a team, three cows, household furniture, &c.," of the taxable value of less than \$1,000 for any year from 1878 to 1882, inclusive. Since 1862 the father had not been able to perform hard manual labor, and since 1872 has become more disabled, and now can only do light work.

In deciding the case on appeal it was held, substantially, that the mother was dependent, in part, on the soldier for support at the time he contracted his fatal disease in the Army, and his contributions were rendered necessary by the poor health of the father, the small amount of his means, and the largeness of his family, and that if he had died or

DEPENDENCE. (MOTHERS)—Continued.

been killed in the service, there would be no question about his title to pension. And the fact that he had become financially and physically unable to make further contributions, and in fact had become dependent upon his parents for his own support, ought not to deprive her of her right to pension.

"It is believed that the letter of the law, '*dependent upon the son at the date of his death, in whole or in part,*' relates more to the wants and necessities of the mother for aid from the son than it does to the son's physical ability to render such aid.

* * * * *

"It is not supposed that Congress intended, by this law, to provide a pension for a dependent mother of a soldier who had died, or who should die after the passage of the law, of wounds or disease contracted in the service who maintained the physical ability to support himself and contribute to the support of the mother, and deny pension to the mother of a soldier whose wound or disease was of a character to totally disable him from supporting himself or to contribute to the support of the mother."

Cameron, Margaret. No. 256,290. Teller, H. M., Secretary. Dec. 26, 1883. Vol. 11, p. 107.

See **MOTHERS.**

RULINGS OF THE COMMISSIONER OF PENSIONS.**RULING No. 11. October 16, 1876.**

The presumption that an able-bodied man is able to and does support his wife and family dependent upon him, when in civil life, will not be held to exist if he is in the military service. The actual facts should be inquired into in such cases.

RULING No. 86. April 7, 1885.

A woman cannot receive pension as a widow and as a dependent mother at the same time. She can elect which one of the two claims she will perfect in case neither of said claims has been allowed. (See sec. 4715, R. S.)

Mother of Albert Shields. App. No. 254,689.

RULING No. 98. May 1, 1885.

The presumption of the common law is that a husband supports his wife; the dependent period, therefore, ceases upon her remarriage and pension should be withheld after the date of such remarriage. (See 4th proviso, sec. 4707, and sec. 4708, R. S.)

Mother of F. M. Andrews. App. No. 271,363.

RULING No. 105. May 20, 1885.

Where soldier died in service, and, about the date of his enlistment his father and mother separated, the mother leaving home and joining a man with whom she has continued to live and cohabit to the present

DEPENDENCE. (MOTHERS)—Continued.

time: *Held*, that this relation of mistress and paramour precludes the idea of the dependence of the mother on the soldier, and her claim, for that reason, should be rejected.

Mother of Walter Ingerick. App. No. 217,181.

RULING No. 114. June 8, 1885.

Father and son were in same company and regiment. The son died shortly after discharge and his mother filed an application for pension on account of his death. In 1873 the father filed an application for invalid pension on account of disability which he contracted in the service. Both claims were admitted at the same time and the amount of money paid to the father and mother, on first payment was in the neighborhood of \$4,000: *Held*, that the receipt of said sum by the soldier's mother and father, under the circumstances stated, did not create a condition of independence so far as the mother's title to pension is concerned.

Mother of Nathan E. Crane. App. No. 178,134.

RULING No. 160. December 21, 1885.

In this case it appears that claimant and her husband were possessed of a small estate, valued at about \$1,000; that having sold one-half of it, they deeded the remaining half to one Stafford, in consideration of a life maintenance of the claimant and her husband by the said Stafford. This contract was entered into June 22, 1882, and the declaration for pension was filed January 4, 1883. While it is not definitely stated, it appears that said contract remained in force until about September, 1883.

The question presented is as to the claimant's right to pension during the period for which maintenance was thus furnished by Stafford, the consideration therefor being held by some to have been insufficient.

The Commissioner *Held* that the insufficiency of the consideration does not enter into the question so long as the contract was complied with by Stafford, it not appearing that he was bound by duty and affection to assist the claimant. The transaction was purely a business one, and the pension, if granted, should be withheld during said period of non-dependence.

Mother of John M. Avery. App. No. 302,537.

DEPENDENT RELATIVES OF COLORED SOLDIERS.**DECISIONS OF THE SECRETARY OF THE INTERIOR.**

1. In all claims for pension of dependent relatives of colored soldiers in the late war of the rebellion, the same rights which are conferred by existing laws upon such soldiers shall be extended to their relatives. In other words, that, in any case wherein the soldier would have been entitled to invalid pension, had he lived to apply therefor, his depend-

DEPENDENT RELATIVES OF COLORED SOLDIERS—Continued.

ent relatives shall be entitled to pension upon the same evidence, &c., as would be accepted as sufficient to entitle the dependent relative of a white soldier.

Bryant, Mary. App. No. 217,928. Chandler, Z., Secretary. Nov. 5, 1875. Vol. 4, p. 142.

2. Where mother of soldier was a slave, and the son from date of enlistment to date of death was separated from her by the lines of the Army: *Held*, that under the circumstances stated, it has no important bearing upon the case that he did not contribute to her support during the period referred to. (See sec. 4723, R. S.)

Mother of Henry W. Harrison, App. No. 235,066. Schurz, C., Secretary. Dec. 5, 1879. Vol. 7, p. 98.

DEPUTY PROVOST-MARSHALS.

See CIVILIANS IN SERVICE OF A QUASI-MILITARY CHARACTER, *par.* 11.

DESERTION.**Section 4749, Revised Statutes.**

No soldier or sailor shall be taken or held to be a deserter from the Army or Navy who faithfully served according to his enlistment until the nineteenth day of April, eighteen hundred and sixty-five, and who, without proper authority or leave first obtained, quit his command or refused to serve after that date; but nothing herein contained shall operate as a remission of any forfeiture incurred by any such soldier or sailor of his pension; but this section shall be construed solely as a removal of any disability such soldier or sailor may have incurred by the loss of his citizenship in consequence of his desertion.

Act 19 July, 1867.

Act of August 7, 1882.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the charge of desertion now standing on the rolls and records in the office of the Adjutant-General of the United States against any soldier who served in the late war in the volunteer service shall be removed in all cases where it shall be made to appear to the satisfaction of the Secretary of War, from such rolls and records, or from other satisfactory testimony, that any such soldier served faithfully until the expiration of his term of enlistment, or until the 22d day of May, anno Domini 1865, or was prevented from completing his term of service by reason of wounds received or disease contracted in the line of duty, but who, by reason of absence from his command at the time the same was mustered out, failed to be mustered out and to receive an honorable discharge.

SEC. 2. That the charge of desertion standing on the rolls and records in the office of the Adjutant General of the United States against any

DESERTION—Continued.

soldier who served in the late war in the volunteer service shall also be removed in all cases where it shall be made to appear to the satisfaction of the Secretary of War, from such rolls and records, or from other satisfactory testimony, that such soldier charged with desertion or with absence without leave did not intend to desert, and after such charge of desertion or absence without leave voluntarily returned to his command and served in the line of his duty until he was mustered out of the service and received a certificate of honorable discharge.

SEC. 3. That in all cases where the charge of desertion shall be removed under the provisions of this act from the record of any soldier who has not received a certificate of discharge, it shall be the duty of the Adjutant General of the United States to issue to such soldier, or in case of his death, to his heirs or legal representatives, a certificate of discharge.

SEC. 4. That when the charge of desertion shall be removed under the provisions of this act from the record of any soldier, such soldier, or in case of his death, the heirs or legal representatives of such soldier, shall receive all pay and bounty which may have been withheld on account of such charge of desertion or absence without leave: *Provided, however,* That this act shall not be so construed as to give to any such soldier as may be entitled to relief under the provisions of this act, or, in the case of his death, to the heirs or legal representatives of any such soldier, the right to receive pay and bounty for any period of time during which such soldier was absent from his command without leave of absence: *And provided further,* That no soldier nor the heirs nor legal representatives of any soldier, who served in the Army a period of less than twelve months, or who intentionally deserted, shall be entitled to the benefit of the provisions of this act.

SEC. 5. That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Act of July 5, 1864.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the charge of desertion now standing on the rolls and records in the office of the Adjutant General of the United States against any soldier who served in the late war in the volunteer service shall be removed in all cases where it shall be made to appear to the satisfaction of the Secretary of War, from such rolls and records, or from other satisfactory testimony, that any such soldier served faithfully until the expiration of his term of enlistment, or until the first day of May, anno Domini eighteen hundred and sixty-five, having previously served six months or more, or was prevented from completing his term of service by reason of wounds received or disease contracted in the line of duty, but who, by reason of absence from his command at the time the same was mustered out,

DESERTION—Continued.

failed to be mustered out and to receive an honorable discharge: *Provided*, That no soldier shall be relieved under this section who, not being sick or wounded, left his command without proper authority whilst the same was in the presence of the enemy.

SEC. 2. That the Secretary of War is hereby authorized to remove the charge of desertion from the records of any soldier in the late war upon proper application therefor and satisfactory proof in the following cases:

First. That such soldier, after such charge of desertion was made, and within a reasonable time thereafter, voluntarily returned to his command and served faithfully to the end of his term of service.

Second. That such soldier absented himself without proper authority from hospital, or from furlough given from hospital, while suffering from wounds, injuries, or disease received or contracted in the service in the line of duty, and, on recovery, voluntarily returned to his command and served faithfully until discharged, or died from such wounds, injury, or disease while so absent and before the date of the muster out of his command.

Third. That such soldier absented himself without proper authority from furlough given by proper authority and while so absent died from wounds, injury, or disease received or contracted in the service in the line of duty before the muster out of his command.

SEC. 3. That in all cases where the charge of desertion shall be removed under the provisions of this act from the record of any soldier who has not received a certificate of discharge, it shall be the duty of the Adjutant General of the United States to issue to such soldier, or, in case of his death, to his heirs or legal representatives, a certificate of discharge.

SEC. 4. That when the charge of desertion shall be removed under the provisions of this act from the record of any soldier, such soldier, or, in case of his death, the heirs or legal representatives of such soldier, shall receive the pay and bounty due to such soldier: *Provided, however*, That this act shall not be so construed as to give to any such soldier, or, in case of his death, to the heirs or legal representatives of any such soldier, any pay, bounty, or allowance for any period of time during which such soldier was absent from his command without proper authority, nor shall it be so construed as to give any pay, bounty, or allowance to any soldier, his heirs or legal representatives, who served in the Army a period of less than six months.

SEC. 5. That all applications for relief under this act shall be made to and filed with the Secretary of War within the period of five years from and after its passage, and all applications not so made and filed within said term of five years shall be forever barred and shall not be received or considered.

DESERTION—Continued.

SEC. 6. That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. Bars claim of widow, notwithstanding soldier returned to service in a different organization, under an assumed name, as a substitute.

Smart, Abigail J. App. No. 80,449. Usher, J. P., Secretary. May 7, 1864. Vol. 2, p. 174.

2. No bar to pension to widow if soldier returned to service and was killed in line of duty.

Burns, Sarah J. App. No. 80,419. Browning, O. H., Secretary. Oct. 8, 1867. Vol. 2, p. 49.

3. Bars claim if soldier, after contraction of disability, while on furlough, deserted.

Huling, Stephen D. No. 94,149. Cox, J. D., Secretary. July 1, 1869. Vol. 2, p. 120.

4.

DEPARTMENT OF THE INTERIOR,

Washington, D. C., June 9, 1875.

SIR: I have received and considered a report from your office dated the 17th of April last, re-submitting the papers in the rejected claim for pension, No. 200,696,* of Mrs. Jane Conroy, as dependent mother of James B. Conroy, late a sergeant in Company H, 183d Pennsylvania Volunteers.

The case was before the Department on appeal in December last, and on the 2d of that month I affirmed the rejection of the claim upon the ground that a record of *desertion* or dishonourable discharge against a claimant for pension must be corrected before the claim should be allowed.

Acting upon incorrect information furnished at the time by your office I arrived at the erroneous conclusion that the uniform practice of the Department had been for many years to regard such a record as a bar to pension. I find, however, upon carefully examining the several decisions made in such cases by the Department, that the practice of your office during the past eight years has been to reject a claim for pension if it appeared that the soldier had deserted or had been dishonorably discharged from the term of service during which the disability was incurred, or where the soldier deserted and it did not appear that he ever returned to duty, or was regularly discharged from the service. This practice has been sanctioned by my two immediate predecessors "(Cox, J. D., and Browning, O. H.)," and meets with my approval, but, after a full consideration of all the statutes bearing upon the question I am of the opinion that a broader view thereof should be taken, and that the character of the soldier's service should have no bearing whatever upon his right to pension.

It appears from the papers in the Conroy case that the claim was rejected by your office because the deceased soldier, while holding the

* Cf. No. 171,088.

DESERTION—Continued.

rank of first lieutenant, was cashiered pursuant to the sentence of a general court-martial.

The disability imposed by such sentence was, however, subsequently removed so far as to allow him to re-enter the service, and the papers show that he re-enlisted in a subordinate rank, served creditably, and was honorably discharged from the latter service.

During his first term of service (from which he was dishonorably discharged) he contracted the disability which, it is alleged, resulted in his death.

While it is true that cashiering involves a dishonorable discharge from the service, there is no statute which, in terms, imposes upon a dishonorably discharged soldier of the late rebellion a disability to receive a pension, provided he be disabled by disease contracted or wounds received while in the line of duty as a soldier. The act of July 14, 1862, grants a pension to *any* officer of the Army, who, since March 4, 1861, has been disabled while in the service and in the line of duty. Neither that act nor any subsequent act of Congress amendatory thereof or supplementary thereto contains any provision whatever by which a pension is denied to a disabled soldier of the war of 1861 because he was dishonorably discharged. The allowance and payment of pension to such a soldier is conditioned alone upon proof of disability incurred in the service and line of duty.

In view of the absence in said statutes of any prohibition of the nature referred to, it is fair to infer that no discrimination was contemplated in their enactment against an otherwise deserving applicant for pension by reason of his dishonorable discharge. Such an inference is supported by the fact that in several statutes passed before and since the late rebellion special exemptions are made in regard to pensions and bounties. For example, the act of March 23, 1782, restricts the allowance of pension to "those" who "did not desert the said service," and the same restriction, in the same words, is contained in the act of April 10, 1806. The act of March 3, 1855, granting bounty-land, provides that "the person so having been in service, shall not receive said land-warrant if it shall appear by the muster-rolls of his regiment or corps that he deserted or was dishonorably discharged from service," and the joint resolution of March 3, 1871, directs the withholding of certain moneys from deserters. It has been decided, however, by the First Comptroller of the Treasury that this last restriction does not apply to pensions.

The statutes conferring and regulating pensions, passed since March 4, 1861, are absolutely silent in regard to the class of persons under consideration. Desertion forfeits the right to bounty, and properly so, even if the law were silent, because bounty is a reward promised by the Government for certain service under an implied contract, which required of the soldier a continuous service, until the expiration of the term of enlistment, and desertion is a violation of such contract by the

DESERTION—Continued.

soldier, which justifies the Government in withholding the stipulated consideration. A pension, however, is no part of the contract for service. It is a payment for loss of physical ability to earn a livelihood, determined solely by the degree of disability, and not, in any sense, a reward for good conduct. The character of the discharge, whether honorable or dishonorable, indicating good or bad character, can have no bearing whatever on the nature and extent of the disability, which alone decides the right to pension. This is clear from the language of the act of July 14, 1862, as follows: "Any officer," &c., "who has been disabled by reason of any wound received or disease contracted while in the service of the United States * * * shall * * * be placed upon the list of invalid pensioners, &c." No reference to his character as a soldier or to the terms of his discharge is made, but it is the disability alone which entitles him to pension. It is apparent from the foregoing that the right of Conroy to a pension was not forfeited by his dishonorable discharge, and that, if the claim be otherwise established, his mother is entitled to pension on account of his death.

The future practice of your office will conform to the foregoing views.

C. DELANO,

Secretary.

The COMMISSIONER OF PENSIONS.

5. Where a soldier deserted and was restored to duty without a trial, and while *en route* to his company contracts a disability: *Held*, that claim should be rejected on the ground that during the period when the disability was contracted he was regarded as a deserter by the War Department.

Lamprecht, Herman. App. No. 175,725. Bell, A., Acting Secretary. Sept. 18, 1877. Vol. 5, p. 223.

6. Where the records show that a soldier was a deserter at the date of the discharge and muster out of the organization to which he belonged his widow has no title to pension.

Porter, Sarah E., widow of Porter, Frank W. App. No. 176,852. Schurz, C., Secretary. July 6, 1878. Vol. 6, p. 20. (*Vide* Wayne, Wm. App. No. 162,434. Delano, C., Secretary. Feb. 27, 1873. Vol. 1, p. 299.)

7. From a prior service to that in which the disability was incurred is a bar to pension, party having re-enlisted in violation of twenty-second article of war. See section 1342, article 50, Revised Statutes.

Butts, Alexander. App. No. 203,506. Schurz, C., Secretary. Nov. 5, 1879. Vol. 7, p. 51.

8. Where soldier was captured while a deserter from his company and died in rebel prison hospital: *Held*, that his widow was not entitled to pension, upon the ground that the soldier did not die of disease contracted in the line of duty.

Gragg, Caroline. App. No. 237,405. Schurz, C., Secretary. Feb. 27, 1880. Vol. 7, p. 235. (*Vide* Knight, Margaret C., widow of Knight, Harrison. App. No. 89,696. Schurz, C., Secretary. Sept. 4, 1878. Vol. 4, p. 90.)

DESERTION—Continued.

9. Desertion from a service prior to that in which the disability was incurred is *not* a bar to pension. (Overruling decision in the Butts case.)

Brnah, James H., alias Judd, Jesse L. Ctf. No. 107,574. Schurz, C., Secretary. May 20, 1880. Vol. 7, p. 364.

[NOTE.—In this decision the honorable Secretary takes the ground that the *intention* of the soldier, at the time he left the first service, has much to do in estimating the gravity of the offense; that existing laws grant a pension to those who served in the rebellion, and who subsequently voluntarily enlisted in the Army of the United States, and while in such service incurred a disability in the line of duty, and that it is certainly not the intent of the law to grant more to a soldier who had formerly participated in the rebellion than to one who had simply been guilty of a dereliction of duty in the service of the United States.]

10. Where a party incurs a disability in one service and subsequently re-enlists and deserts from another: *Held*, that right to pension accrued on the date of his discharge from the service in which the disability was incurred, and that when claim for restoration is established the pension should be allowed from the date his pay for military service ceased.

Robbins, Benjamin. Ctf. No. 59,707. Schurz, C., Secretary. Apr. 16, 1880. Vol. 7, p. 290.

[NOTE.—At the time of his second enlistment Robbins was receiving a pension for a disability which he incurred in his first service and in the line of duty in that service, from which he also had an honorable discharge. His title to pension for that disability was not forfeited by his subsequent desertion from a second service, and when his pension was restored, under the above decision, the period between the date of his second enlistment and the date to which he was last paid as a soldier in said second service was deducted.]

See LINE OF DUTY, par. 14 (4), AND SPECIAL ACTS, par. 18.

RULINGS OF THE COMMISSIONER OF PENSIONS.

RULING No. 13. *December 8, 1871.*

The fact of honorable discharge is not accepted by this office as evidence to remove charge of desertion.

The fact of a soldier being reported as absent without leave, on the records of a hospital, does not constitute desertion.

The fact of a soldier not returning from furlough to the command from which he was furloughed does not, of itself, constitute desertion.

RULING No. 14. *August 10, 1875.*

The record of desertion shall not operate as a bar to a claim for pension where the disability or death cause shall have been incurred in the service and line of duty after the soldier's return to the service, even though such service may have been subsequent to the date at which his original term of enlistment would have expired had his service been continuous.

RULING No. 110. *June 1, 1885.*

Where a soldier deserted from one service and subsequently re-enlisted and contracted a disability in another: *Held*, that, inasmuch as the War Department declines to recognize the second service as legal, the re-enlistment therein having been in violation of the 22d article of war, the claim for pension for disability contracted in said second serv-

DESERTION—Continued.

ice must be rejected upon the ground that, at the date of its incurrence, the claimant was not in the line of duty, he having been at that time a deserter from his first service.

Moon, John. App. No. 275,206.

[NOTE.—The 22d article of war, above referred to is as follows:

ARTICLES OF WAR.

ART. 22. No non-commissioned officer or soldier shall enlist himself in any other regiment, troop, or company, without a regular discharge from the regiment, troop, or company in which he last served, on the penalty of being reputed a deserter, and suffering accordingly. And in case any officer shall knowingly receive and entertain such non-commissioned officer or soldier, or shall not, after his being discovered to be a deserter, immediately confine him, and give notice thereof to the corps in which he last served, the said officer shall by a court-martial be cashiered. (Now article 50, section 1342, Revised Statutes.)]

RULING No. 111. June 1, 1885.

Where soldier entered the service as a substitute, deserted on his way to join his regiment, and having been captured, tried by court-martial, and sentenced, among other things, to make good the time lost by desertion, and during service under said sentence contracted a disability: *Held*, that his service under the sentence of the court-martial was the penalty of his violation of military law, and he is responsible for all ordinary consequences to himself while paying such penalty. He was merely making good the time lost by reason of his bad conduct which he would not have had to do had he served in good faith.

Smith, Nelson. App. No. 484,830.

RULING No. 119. June 12, 1885.

Where soldier enlisted as a substitute and deserted from an organization which had been mustered out of the service prior to the date of his said enlistment: *Held*, that inasmuch as the organization into which the soldier enlisted had no existence in fact on the date of said enlistment there was really no desertion and pension cannot be denied. (See Ruling No. 122.)

Smith, Nelson. App. No. 484,830. Order book, p. 90.

RULING No. 122. July 20, 1885.

Where charge of desertion at any time during period of service stands against the record of a soldier, favorable action in his claim for pension cannot be taken until said charge shall have been removed by the Secretary of War.

RULING No. 125. July 22, 1885.

Where soldier was captured by the enemy while outside the pickets and camp guards, and during his subsequent imprisonment contracted a disability for which he claimed pension: *Held*, that inasmuch as it is not shown that the soldier had any intention to desert, the penalty of desertion should not be inflicted upon him; he should be regarded as

DESERTION—Continued.

having been in line of duty when his disability was contracted and his claim for pension for said disability should be allowed.

— Newman. App. No. 115,233.

RULING No. 132. August 29, 1885.

Soldiers who were deserters on the 10th day of March, 1863, but who, under the President's proclamation of that date returned to their commands prior to the 1st day of April, 1863, were relieved of all legal consequences of such desertion (except the loss of pay and allowances during the period of absence) and such desertion will not operate as a bar to pension.

Cox, Thomas J. App. No. 211,704. Order book, p. 92.

[NOTE.—This ruling was subsequently qualified and substantially revoked by Ruling No. 135, which is as follows:]

RULING No. 135. September 4, 1885.**THE LAW OF PENSIONS TO DESERTERS.**

On the 8th day of May, 1792, Congress enacted what is now known as section 1639, Revised Statutes, declaring thereby that if "any person, whether officer or soldier, belonging to the militia of any State, and called out into the service of the United States be wounded or disabled while in actual service he shall be taken care of and provided for at public expense." This may be properly regarded as the establishment of the pension system of the United States, and more particularly as the foundation of law upon which rests that which, in the statutes, is described as "the pension roll" or "list of invalid pensioners."

Very many modifications of the original declaration have, from time to time, been formulated and declared, until, prior to July 14, 1862, there had grown up a system of laws which received the careful consideration of Congress, the Departments, and the courts, and which had been interpreted until they had taken the shape and permanence of a code.

Through all this code, as exemplified by the enactments to be found in sections 4730, 4732, 4736, 4740, 4756, and 4757 of the Revised Statutes (edition of 1878), runs a primary requirement upon which the Government has always insisted as to the veterans of the Revolutionary war, the soldiers of the war of 1812, the soldiers of the Mexican war, the soldiers of the Regular Army, the members of the Navy and Marine Corps, and all volunteers of all classes in the multitudinous wars that have intervened between the enactment of the first pension law and 1861—it is that *there should be honorable discharge before pension*. It has been a requirement from which the Government has never receded, except, perhaps, as hereinafter pointed out.

The man who could present proof of service, of injury in line of duty, resulting in pensionable disability, and of honorable discharge, was the

DESERTION—Continued.

man who was placed upon the pension "roll," and whose name and that of others like him constitute the "list" of pensioners.

In making provision for men entitled to pension, this list and roll has been recognized as existing by the legislative, judicial, and executive departments. Take, for instance, the phraseology of section 4736, "the Secretary of the Interior is directed to place on the pension roll," &c.; of section 4739, "before the name of any person is placed upon the pension roll," &c.; of section 4741, "shall be entitled to be placed on the Navy pension list;" of section 4743, "he shall thereupon be placed upon the pension roll;" of section 4733, "all pensioners whose names are now on the pension roll," &c.

Every soldier who enlisted in the service of the United States during the war of the rebellion was bound by an oath, voluntarily taken, to the performance of duty and the observance of orders pursuant to the Articles of War. Among those articles are 47 and 48, which point out the offense of desertion, exhibit its heinous character, and the gravity of the punishment to be inflicted therefor.

To emphasize and establish with absolute certainty the legislative abhorrence of this crime of desertion, Congress, on the 3d of March, 1865, enacted as punishment for desertion forfeiture of rights of citizenship, and made deserters aliens, incapable of becoming citizens.

On the 19th of July, 1867, Congress further enacted what is now known as section 4749, here given, which provides: "No soldier or sailor shall be taken or held to be a deserter from the Army or Navy who faithfully served according to his enlistment until the 19th day of April, 1865, and who, without proper authority or leave first obtained, quit his command or refused to serve after that date; *but nothing herein contained shall operate as a remission of any forfeiture incurred by any such soldier or sailor of his pension*; but this section shall be construed solely as a removal of any disability such soldier or sailor may have incurred by the loss of his citizenship in consequence of his desertion."

From this review it is evident to the Commissioner—

(1) That there was established by statute, and the immemorial practice of the Government what is known and designated as a "pension list" or "roll of the Pension Office."

(2) That only such persons could be rightfully placed upon that roll as had been honorably discharged.

(3) That Congress, as late as 1867, recognized that these provisions of the statutes, and this common practice of the Pension Office, related as well to the soldiers of the war of 1861 as to those of all preceding wars, and hence the Commissioner holds that a man against whom the charge of desertion remains cannot receive a pension, nor be placed upon the pension roll, nor be borne on the list of pensioners.

On the 14th of July, 1862, it was enacted that any officer, &c., who has been since the 4th day of March, 1861, or shall hereafter be, disabled

DESERTION — Continued.

by reason of any wound received or disease contracted while in the service of the United States and line of duty, shall, upon making proof of the fact, according to such forms and regulations as are or may be provided by or in pursuance of law, be placed upon the "list of invalid pensioners" of the United States. And it has been contended, and very strenuously contended, that under this language a deserter may be pensioned. But it will be noted that the Congress expressly recognizes the existence of "present rules and regulations," and further expressly recognizes existence of the "pension roll," which had continued under the before-mentioned rules and regulations since 1792, and, as before pointed out, in 1867, expressly declares and acknowledges the existence of these regulations and their application to the soldiery of 1861 by recognizing a forfeiture of pension by the act of desertion. The conclusion is irresistible to the mind of the Commissioner that by this whole series of enactments, before pointed out, Congress did intend not to pension a deserter; and has expressly recognized that a deserter's pension is forfeited by the act of desertion. Nor will the mind of the ordinary man believe, without convincing proof thereof, that it has been designed to exact of the soldiers of the Regular Army, and of that great class of volunteers of other and honorable wars, the condition of an honorable discharge or release from service, and at the same time allow that the company of their equally honorable brethren of the war of 1861 should be degraded and lowered in the universal estimation of mankind by admitting to the high privileges of the pension rolls those not honorably discharged or released from service. Or, in other words, the Commissioner cannot believe that the Government intends that the deserters of the war of 1861 should be placed upon a par with the faithful soldiers of that great war and all the wars that preceded it.

It will not be presumed, as a matter of law, that the Government of the United States intends to and does bestow equal honor upon two absolutely distinct classes of claimants, and that it will allow the rewards of honorable service and honorable discharge to those who have disgraced the service and abandoned their comrades in the hour of peril.

The power of Congress in the premises is equal, whether the granting of a pension be regarded as the performance of a contract or the bestowal of a gratuity; for, if the first, it is forfeited by the act of desertion; and, if the second, the granting power has the right and has exercised it to attach a clause of defeasance to its grant, which becomes operative on the act of desertion. It is true that on several occasions methods have been provided by which the penalties of desertion may be avoided. It is believed that such methods were designed to afford relief to those who were technically, only, guilty of desertion.

These methods are set out:

(1) In the Presidential proclamation of the 10th of March, 1863, issued in pursuance of the 26th section of the act of March 3, 1863, and

DESERTION—Continued.

which substantially provides as follows: "Soldiers absent from their regiments who should report at any one of certain designated rendezvous before the 1st day of April, 1863, might be relieved from punishment," &c.

(2) In the Presidential proclamation of March 11, 1865, issued in pursuance of the 21st section of the act of March 3, 1865, providing that whatsoever deserters returned by the 10th of May, 1865, should be pardoned, &c.

(3) In the General Order No. 43, offering pardon to all deserters from the Regular Army who should return by the 15th day of August, 1866, upon certain conditions therein named.

(4) In the order issued on the 10th day of October, 1873, by the Secretary of War, by direction of the President, wherein was offered full pardon to all deserters from the Regular Army who should report themselves to any military post by the 1st day of January, 1874.

(5) On the 7th day of August, 1882, and on the 5th day of July, 1884, it was enacted and re-enacted that soldiers who were borne as deserters upon the records of their commands, upon complying with the terms of the respective acts, to the satisfaction of the Secretary of War, may have said charges removed from the records by said Secretary.

These acts, which are at this time operative and effective, point out the only way now existing, in the opinion of the Commissioner, by which the charge of desertion may be removed from the record of a soldier. Such application must be made to the Secretary of War. No authority and no discretion is lodged in the Commissioner of Pensions. The only officer who can act is the Secretary of War, and until the charge of desertion is removed by the Secretary of War the granting of pensions by this Office cannot be made.

The wisdom of leaving this question to the Secretary of War is apparent when it is remembered that all permanent records of the various organizations in the Army are in his custody. He has the muster-in and muster-out rolls; he has the descriptive lists; he has under his control the hospital records, where are contained the proofs of disability. In other words, all recorded facts which will establish the absence of the soldier, its continuance, duration, and character; whether the alleged desertion occurred in the presence of the enemy, or whether under circumstances such as would be apt to show that it was absence without the intent of desertion, all are peculiarly under his control. He has, indeed, all that is necessary to determine either whether the claimant's case brings him within the exemptions pointed out by the four proclamations and orders heretofore referred to, or within the equitable consideration of the Secretary of War in the exercise of the beneficent powers lodged in his hands by the acts of 1882 and 1884.

Inasmuch, therefore, as this matter has been by Congress relegated to the Secretary of War, the Commissioner reiterates the determination

DESERTION—Continued.

not to assume jurisdiction of a case wherein the charge of desertion still exists against an applicant for pension. To the extent to which they may seem to be in conflict herewith, all former rulings on the subject are qualified.

The fact that an occasional case of hardship may arise under this ruling does not enlarge the power of the Commissioner nor change the law that governs him and the claimants alike. Nor is it believed that any case will arise where relief will be refused by the Secretary of War when it should be granted.

JOHN C. BLACK,
Commissioner.

[NOTE.—The foregoing ruling was approved November 6, 1885, by the honorable Secretary of the Interior, on appeal, in the case of Jehu Myers, Company A, 115th Ohio Volunteers. No. 223,042.]

RULING No. 136. October 21, 1885.

Where the report of the Surgeon General shows that the soldier deserted from hospital, and the report of the Adjutant General shows a clear record and that the soldier was mustered out with his company and honorably discharged, the governing evidence will be the latter report, and said soldier will *not* be considered a deserter.

Powers, Morris. No. 358,996. Order book, p. 97.

RULING No. 137. October 30, 1885.

In the matter of the application of Robert H. Delaney, a private in Company A, Fifth Tennessee Volunteers, certificate No. 309,059, the record of the Adjutant General's Office shows that the claimant was absent from his command from May 1 until June 14, 1864. That on the 6th day of June, 1864, he was marked as "deserter" by order of General Sherman, and his name dropped from the rolls.

The rolls for April, 1865, report him absent since June 14, 1864; that he was mustered out of service on detached muster-out rolls June 12, 1865, at Nashville, Tenn., with this remark: "Restored to pay and duty by general court-martial, June 6, 1865."

In this case the charge of desertion had been passed upon in apt time, and determined authoritatively and finally, by competent authority, provided by law, a general court-martial.

The charge of desertion had been removed in manner pointed out by law, prior to the soldier's discharge from the service. He had been tried on the charge of desertion and found not guilty.

The Commissioner cannot pass beyond this finding.

RULING No. 138. October 30, 1885.

In the matter of the application of Harriet Kimble, widow of George W. Kimble, private Company I, Fourth Regiment Maine Infantry, No. 258,902, the following facts appear of record:

DESEPTION—Continued.

“George W. Kimble enlisted in Company I, Fourth Maine Volunteers, June 15, 1861; was detached for service on a United States gunboat.”

While on such detached service, June 17, 1862, by the explosion of steam-chest on board of United States steamer “Mound City,” he received injuries which were the basis of the claim for pension now pending.

Kimble was honorably discharged, as it appears of record, on the 23d of March, 1863, and April 17, 1879, he filed a claim for original invalid pension. Pending its adjudication he died, and his widow applies in this case for pension. At a subsequent period, he enlisted in the Navy and deserted therefrom.

If the facts of disablement in the case are sufficient to establish the claim it will be allowed; nor will the widow's right be affected by the fact that at a subsequent time and in another term of service wholly distinct from the one during which the injury was received which is the basis of the present claim, the claimant deserted the service of the Government.

[Extract from office “Circular” to chiefs of divisions, dated November 5, 1895.]

* * * * *

2. *Absence without leave* is not desertion. The crime of desertion is a specific offense known to military law, and is not to be confused with other offenses.

3. The charge of “*desertion from hospital*” is not, *per se*, a charge of desertion from the service, and where the Adjutant General's report does not show desertion from the service, Ruling No. 122 does not necessarily apply.

RULING No. 143. November 10, 1885.

Where a claimant deserted from the Navy and subsequently enlisted in the military service and contracted a disability in line of duty: *Held*, that his claim should be admitted under Ruling No. 138 in the Kimble case.

Curtis, Charles. App. No. 229,847. Order book, p. 102.

RULING No. 156. December 10, 1885.

Claimant enlisted in Company C, Twenty-eighth Michigan Volunteers, September 1, 1864, and *deserted* September 30, 1864, at Kalamazoo. He continued a deserter until taken up on the roll for May and June, 1865, when he is noted as having been “present,” with the remark, “reported at Kalamazoo, Michigan, under President's proclamation, April 7, 1865.” He thereafter remained with his company and was mustered out with it June 5, 1866.

Under date of October 22, 1885, these facts were submitted to the Secretary of War “for his consideration as to whether the charge of desertion should be removed.”

DESEPTION—Continued.

Under date of November 13, 1885, the Adjutant-General, U. S. A., replied that "the charge of desertion cannot be removed, as it is not considered that the soldier returned from desertion within a reasonable time, within the meaning of the act of Congress approved July 5, 1884."

Held, that the War Department has jurisdiction over this question and its judgment is final therein. The records still showing that this man deserted from the service, his claim for pension will be rejected upon that ground.

Cortland Chapman. App. No. 530,462.

RULING No. 157. December 10, 1885.

Where a claimant enlisted March 4, 1862, was wounded in action June 15, 1863, mustered out March 1, 1864, re-enlisted March 2, 1864, deserted August 10, 1864, and never rejoined his command: *Held*, that his discharge from his first enlistment contract perfected his rights thereunder, and that those rights were not forfeited by his failure to comply with the terms of a subsequent contract.

Jefferson Fox. Ctf. No. 276,763.

RULING No. 159. December 20, 1885.

Where claimant left his command when it was approaching the enemy, for which act he was dishonorably discharged, and subsequently re-entered the service, contracted a disability in line of duty and was honorably discharged: *Held*, that the execution of the sentence of dismissal from first service was the completion of the punishment for the offense with which he was charged; that his acceptance by the United States for a second term of service was an independent undertaking, and that, if the claim for the disability contracted in line of duty in the second service be otherwise proved, claimant's title to pension will not be affected by the record of his dismissal from the first service.

Benjamin C. Berry. App. No. 380,670.

DISABILITY.**DECISIONS OF THE SECRETARY OF THE INTERIOR.**

1. Cause of, must have been contracted in line of duty as well as in the service.

Call, Parmelia M. App. No. 27,292. Usher, J. P., Secretary. Sept. 11, 1863. Vol. 1, p. 27.

2. Not connected with a previous disease or injury received in service is not pensionable, even if soldier's health after discharge rendered him more liable to disease.

Meador, Lydia C. App. No. 62,992. Harlan, J., Secretary. July 14, 1865. Vol. 2, p. 179.

3. If shown to have been contracted in the service, in the line of duty, entitles, notwithstanding conflicting testimony.

Rees, Elizabeth. App. No. 61,076. Brown'ng, O. H., Secretary. Oct. 10, 1866. Vol. 2, p. 1.

DISABILITY—Continued.

4. Existence of, is the governing principle in claims for invalid pension.

McCluney, Elizabeth. Ctf. No. 411. Delano, C., Secretary. Feb. 24, 1873. Vol. 1, p. 238.

5. Resulting from disease contracted or injuries received after enrollment and before muster entitles to pension.

Kenyon, B. C. App. No. 180,243. Cowen, B. R., Acting Secretary. May 6, 1874. Vol. 3, p. 192.

6. Seat of, removed by contraction of greater one does not destroy original right to pension.

McLeod, Daniel. Ctf. No. 74,578. Delano, C., Secretary. June 2, 1875. Vol. 4, p. 57.

7. Continuance of, may be shown by the evidence of other than medical persons.

Calhoun, William W. Ctf. No. 122,550. Chandler, Z., Secretary. Jan. 15, 1876. Vol. 4, p. 180.

8. May be shown by testimony of intimate acquaintances in restoration cases. (See section 4719, R. S.)

Swinton, John. Chandler, Z., Secretary. Dec. 5, 1876. Vol. 4, p. 466.

9. Although the applicant may actually perform as much labor as a person free from any disabling cause whatever, if in performing work he labors under a disadvantage in consequence of a disability received in line of duty in the service he is entitled to a pension.

Abare, Peter. App. No. 44,925. Schurz, C., Secretary. Mar. 24, 1877. Vol. 5, p. 67. (Vide Kenney, William. No. 206,421. Schurz, C., Secretary. Apr. 14, 1877. Vol. 5, p. 82.)

10. To be pensionable, must be of such a character and exist to such a degree that it can be detected by the examining surgeons of the office.

Williams, Durin H. App. No. 178,168. Schurz, C., Secretary. Sept. 5, 1877. Vol. 5, p. 197.

11. Every invalid pensioner, "however disabled, is bound as a prudent man to use every proper means at his command to alleviate his sufferings and lessen his disability," and his failure to do so would make him responsible for the aggravation of his disability.

Bynd, Louis. Ctf. No. 78,673. Schurz, C., Secretary. Nov. 13, 1880. Vol. 8, p. 57.

DISABILITY, DEGREE OF.

12. (1) The word "helplessness," used in the act of June 18, 1874, does not imply utter physical prostration, but should be understood as referring not only to the physical helplessness which compels him to depend at times upon the personal aid and assistance of another person, but also to his helplessness, *i. e.*, inability to gain a subsistence by his own exertions.

Schmidt, Henry. Ctf. No. 35,234. Chandler, Z., Secretary. Feb. 11, 1876. Vol. 4, p. 197.

(2) When the evidence presented by a claimant is sufficient to satisfy the mind of a candid and impartial person that a pensionable disability from some obscure cause (such as rheumatism, neuralgia, myalgia, or angina pectoris) exists, although no physical signs of it can be discov-

DISABILITY, DEGREE OF—Continued.

ered by the examining surgeons, pension should be allowed at a rate proportionate to the degree of disability proved.

Douglass, John. No. 472,120. Teller, H. M., Secretary. July 10, 1884. Vol. 11, p. 311.

DISABILITY, PERMANENT AND SPECIFIC, AND NON-SPECIFIC.**RULING OF THE COMMISSIONER OF PENSIONS.**

RULING No. 131. *August 21, 1885.*

Where an injury to right arm in the service and line of duty was alleged and the proof showed and the claimant admitted that the same arm had been injured three separate times prior to enlistment: *Held*, that the injury admitted to have been received in the service and line of duty cannot be offset by some other injury or injuries received either prior or subsequent thereto, and that if the Medical Referee can determine the degree of disability due to the injury received in the service, the claim for restoration should be favorably considered. It was further held that in the future the Medical Referee will be called upon to distinguish between different causes of disability and to express an opinion as to the existence of a pensionable degree of disability arising from the disease or injury shown to have been contracted or received in the service and line of duty.

Bachus, Reuben E. Ctf. No. 178,638. Order book, p. 88.

See SPECIFIC AND NON-SPECIFIC DISABILITIES.

DISCHARGE, DATE OF.**Section 4701, Revised Statutes.**

The period of service of all persons entitled to the benefits of the pension laws, or on account of whose death any person may become entitled to a pension, shall be construed to extend to the time of the disbanding the organization to which such persons belonged, or until their actual discharge for other cause than the expiration of the service of such organization.

Sec. 7, 3 Mar., 1873. Sec. 9, 6 June, 1866.

DECISION OF THE SECRETARY OF THE INTERIOR.

Date of actual discharge held to be the date to which last paid.

Stoll, Gottlieb. App. No. 115,451. B. R. Cowen, Acting Secretary. Dec. 2, 1872. Vol. 1, p. 223.

RULING OF THE COMMISSIONER OF PENSIONS.

RULING No. 78. *December 6, 1883.*

The muster out of a soldier by reason of re-enlistment or for the purpose of receiving a promotion, will be regarded as an actual discharge from such prior enlistment. The pension due for disability contracted in said service, if claim was filed in time, will begin at date of said dis-

DISCHARGE, DATE OF—Continued.

charge, deducting the time for which he was paid in any subsequent service.

See decision of Adjutant General in case of Hiram Freeman, No. 328,181, that discharge for promotion was an actual discharge.

Jones, Hugh J. Ctf. No. 237,505.

DISCHARGE, DISHONORABLE.**DECISION OF THE SECRETARY OF THE INTERIOR.**

The allowance and payment of pension to a soldier who was dishonorably discharged is conditional alone upon proof of disability incurred in the service and line of duty. The character of the discharge, whether honorable or dishonorable, indicating good or bad character, can have no bearing whatever on the nature and extent of disability which alone decides the right to pension.

Conroy, Jane. Ctf. No. 171,088. C. Delano, Secretary. June 9, 1875. Vol. 4, p. 66.

See DESERTION, *par.* 4.

RULING OF THE COMMISSIONER OF PENSIONS.

RULING No. 150. *November 25, 1885.*

Where a party was dishonorably discharged from the United States service and the disability to re-enter said service resulting from such dismissal was subsequently removed: *Held*, that dishonorable discharge is a bar to pension, but in this case the removal of the incapacity to re-enter the service, by competent authority and in apt time, substantially relieved the officer from the onus of his dismissal and renewed in him the right to pension he would have had if he had been honorably discharged.

Widow of Silas J. Garnett. App. No. 281,615.

DISCHARGE, HONORABLE.**DECISION OF THE SECRETARY OF THE INTERIOR.**

An honorable discharge is unavailing if soldier deserted while on furlough after his disability was contracted.

See DESERTION, *par.* 3.

DISLOYALTY.**Section 4716, Revised Statutes.**

No money on account of pension shall be paid to any person, or to the widow, children, or heirs of any deceased person, who in any manner voluntarily engaged in, or aided or abetted, the late rebellion against the authority of the United States.

Sec. 23, 3 Mar., 1873; sec. 4, 14 July, 1862; see act 4 Feb., 1862, and joint resolution 2 Mar., 1867; (see act 3 Mar., 1877.)

DISLOYALTY—Continued.**Act approved March 3, 1877.**

AN ACT amending the pension law so as to remove the disability of those who, having participated in the rebellion, have, since its termination, enlisted in the Army of the United States, and become disabled.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the law prohibiting the payment of any money on account of pensions to any person, or to the widow, children, or heirs of any deceased person, who, in any manner, engaged in or aided or abetted the late rebellion against the authority of the United States, shall not be construed to apply to such persons as afterward voluntarily enlisted in the Army of the United States, and who, while in such service, incurred disability from a wound or injury received or disease contracted in the line of duty.

[NOTE.—The above act is held *not* to apply to claims for pension arising out of service in the Navy.]

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. Encouragement of the rebellion, or sympathy therewith, bars claim for pension.

Seever, James A. App. No. 13,853. Usher, J. P., Secretary. May 9, 1864. Vol. 2, p. 176.

[NOTE.—In the case of Margaret Lemaster, Ctf. No. 1,068. Hon. Secretary Schurz decided, January 25, 1878, that any one who gave public expression to sentiments showing sympathy with the rebels, aided and abetted the rebellion within the meaning of section 4716, Revised Statutes. See Vol. 5, p. 321.]

Also case of James D. Martin, decided in same way by same secretary, Mar. 4, 1879. O. W. and N. Vol. 2, p. 79.

2. Pensioners who voluntarily took up arms against the United States forfeit pension.

Pension money should not be paid to loyal for benefit of disloyal persons.

Pension money may be paid to loyal persons through the hands of disloyal ones.

Deas, Charles. Browning, O. H., Secretary. Dec. 7, 1866. Vol. 1, p. 59

3. Compulsory service in the rebel service does not forfeit right to pension.

Thatcher, Hannah. Cox, J. D., Secretary. Feb. 25, 1870. Vol. 1, p. 76.

4. Name had been dropped from the rolls under the act of February 4, 1862 (section 4716, R. S.). In an application for restoration, claimant declined to take the "iron-clad oath" then required by the Office, under joint resolution of March 2, 1867 (now section 3480, R. S.), her father and relations then being in the rebel service, but she declaring that she had not encouraged or manifested sympathy with their cause: *Held*, that she was entitled, and that the joint resolution of March 2, 1867, does not apply to pension cases, and that the iron-clad oath should be stricken from the application for such restoration, and that in lieu

DISLOYALTY—Continued.

thereof, the claimant be required to state that he or she had not aided or abetted the late rebellion against the authority of the United States.

Scarritt, Irene G., widow of Scarritt, Jeremiah M. File No. 11,404. Delano, C., Secretary. Dec. 5, 1873. Vol. 1, p. 28.

See Cochrane, Sally. File No. 26,657. Delano, C., Secretary. Mar. 25, 1873. O. W. and N. Vol. 1, p. 27.

5. Applying to Confederate congress for payment of Federal pension does not forfeit pension.

Screven, Louisa H. P. Delano, C., Secretary. June 26, 1873. Vol. 1, p. 398.

Above decision subsequently affirmed by same Secretary as follows:

Where claimant signed a petition to the rebel secretary of war for renewal of his pension on the rebel government: *Held*, that under the twenty-third section of the act of March 3, 1873, that was not aiding and abetting the rebellion so as to bar claim for restoration.

Dunning, James. Ctf. No. 8,607. Delano, C., Secretary. December 5, 1873. Vol. 3, p. 74.

6. Making clothes and tents for rebel soldiers held to be a disloyal act.

Hendley, Penita. Ctf. No. 144. Delano, C., Secretary. Dec. 6, 1873. Vol. 3, p. 77.

7. Voting for the ordinance of secession held to be a disloyal act, and forfeits title to pension.

Slaughter, Andrew D. Ctf. No. 16,777. Delano, C., Secretary. Feb. 18, 1874. Vol. 3, p. 102.

8. Cannot be condoned by subsequent loyal service.

Erdman, Charles W. Ctf. No. 31,616. Chandler, Z., Secretary. May 21, 1874. Vol. 3, p. 214.

9. Disloyal conduct is a bar to any claim for pension.

Maynard, Edward T. App. No. 179,195. Delano, C., Secretary. Aug. 6, 1874. Vol. 4, p. 282.

10. Paying taxes to Confederate government held to be a disloyal act, and forfeits pension.

Davis, Henry L. App. No. 30,209. Cowen, B. R., Acting Secretary. Nov. 2, 1875. Vol. 4, p. 135.

11. Of son does not deprive his mother of the pension granted to her by special act on account of his death while in subsequent service in United States Army.

Hensley, Ann. Chandler, Z., Secretary. Apr. 7, 1876. Vol. 4, p. 253.

12. Exercising the functions of justice of the peace under the government of a State in rebellion against the United States is an act of disloyalty.

Havis, J. D. App. No. 28,521. Gorham, Charles F., Acting Secretary. Oct. 12, 1876. Vol. 4, p. 418.

13. Of widow of soldier, as shown by her admission in connection with the fact that a special act was passed by Congress in behalf of the minors on account of disloyalty of mother, is sufficient ground for the rejection of her claim.

Oliver, Hannah E., widow of Oliver, Thomas. App. No. 128,314. Schurz, C., Secretary. Oct. 10, 1879. Vol. 7, p. 17.

DISLOYALTY—Continued.

14. A soldier was discharged in 1862, and pensioned on account of disability. His pension was paid to May 1, 1864, on which day he entered the Revenue Marine Service. While on board a revenue cutter, April 18, 1865, on the reception of the news of President Lincoln's assassination, he stated in the presence of the officers and men, "that it was a damned small loss," or words to that effect. For the use of this language he was tried by court-martial and found guilty of conduct prejudicial to good order and military discipline, and committed to prison for the offense.

Not having applied for his pension for a period of more than three years, his name was dropped from the pension roll. He filed a claim for renewal in 1871, and it was rejected on the ground of his sympathy with the rebel cause by the use of the expression above referred to.

On appeal, it was held that under the modification of the law under which this action was taken, as contained in section 4716, Revised Statutes, the applicant, in using the language referred to, cannot be said to have "aided and abetted the rebellion," and the renewal of his pension was ordered to be made.

Dinan, William. Ctf. No. 16, 541. Teller, H. M., Secretary. Apr. 10, 1888. Vol. 9, p. 274.

15. The question arises in this case, and will arise in others, whether soldiers who enlisted in the rebel army to avoid starvation and with the intention of making their way back to the Federal Army as soon as possible, should be held to have voluntarily aided and abetted the late rebellion within the meaning of section 4716 of the Revised Statutes. The difficulty in dealing with it lies not so much in the abstract question itself as in the determination of the actual facts in any given case. The presumption of the law is that every man is a free agent and that what he does is done of his own free volition. The law also judges a man's motives and intentions from his overt acts and not from his subsequent explanation of those acts. This being so it must be presumed that those prisoners who enlisted in the rebel army did so "voluntarily," and that they thereby "aided and abetted" the rebellion. That there may have been cases in which such enlistments were made under circumstances amounting to practical duress, with no intention of aiding or abetting the rebellion, but with the design of escaping to the Union lines at the first opportunity, the Department does not doubt. But where such facts are pleaded against the record they must be distinctly and affirmatively shown.

Hurst, Joseph S. No. 344, 516. Teller, H. M., Secretary. Mar. 5, 1884. Vol. 11, p. 156.

16. Pension was claimed for a disability incurred by the claimant while a prisoner at Salisbury, N. C., and rejected upon the ground that he joined the rebel army after he incurred the disability. The record shows his capture, imprisonment, and joining the rebel army, his escape therefrom and return to the Union lines.

DISLOYALTY—Continued.

It being claimed on appeal that the soldier "did not *voluntarily* engage in the late rebellion," but did so for the purpose of gaining opportunities to escape, it was decided that he should be afforded the "opportunity to file his own affidavit and such corroborative evidence as he may be able to procure, for the purpose of showing the facts in regard to his enlistment and service in and escape from the rebel army. It is also suggested that the Adjutant General be requested to furnish copies of all records or papers on file in the War Department bearing upon the matter."

* * * * *

"The test of a person's right to have his claim allowed should not be acts done by him under duress nor under circumstances beyond his control, but he should be allowed to show, in connection with such acts, the facts and circumstances under which they were performed, and that while such acts were done by him his motives and feelings were not therein truly represented."

Lightner, Reuben. No. 322,557. Teller, H. M., Secretary. Mar. 10, 1884. Vol. 11, p. 170.

17. The appellant having, previous to his enlistment into the *naval* service of the United States, voluntarily aided and abetted the enemies of the United States, is not entitled to a pension under the law for any disability he may have contracted in said naval service.

The law does, however, provide that those persons who, having voluntarily engaged in or aided or abetted the late rebellion, and afterward voluntarily enlisted in the *Army* of the United States, and who, while in the service, incurred disability from wound or injury received, or disease contracted in the line of duty, shall be entitled to a pension.

There is no law under which appellant could be allowed a pension.

* Dennison, Salathiel. No. 3,876. (Navy.) Joslyn, M. L., Acting Secretary. Aug. 27, 1884. Vol. 11, p. 344.

18. Service was rendered in Company B, Fifty-eight North Carolina, Partisan Rangers, in 1862, a local company, in order to escape conscription in the Confederate army: *Held*, to be a disloyal act.

Stewart, Wm. R. O. W. No. 18,158. Joslyn, M. L., Acting Secretary. Oct. 8, 1884. O. W. and N. Vol. 3, pp. 286, 288.

RULINGS OF THE COMMISSIONERS OF PENSIONS.**RULING No. 35. March 17, 1866.**

Pensioners residing in the States in and during the rebellion whose names were stricken from the rolls by act of February 4, 1862, shall, upon proof of their loyalty to the Government be restored, with payment from date of last receipt of pension. Modified, sections 5-6, act March 9, 1878.

RULING No. 36. June 9, 1870.

Loyalty of minor children, who were residents in the Northern States during the war, may be presumed, in the absence of indications to the contrary.

DISLOYALTY—Continued.**RULING No. 37. June 22, 1871.**

In view of the express requirements of the act of February 14, 1871 (war of 1812), proof of loyalty will, in all cases, be required and carefully examined, and the law strictly construed.

RULING No. 38. March 4, 1872.

Loyalty of the soldier, if he survived after the commencement of the late rebellion, must in all cases be proven.

RULING No. 39. June 13, 1872.

After the death of a pensioner whose name has been dropped from the rolls, under the act of February 4, 1862, the widow or children only have the right to prove loyalty of said pensioner, and it is the duty of this Office, upon receipt of such proof, together with proof of the loyalty of the widow or children, to restore the name of the pensioner to the rolls and to pay the pension accrued to date of death of said pensioner to said heirs.

RULING No. 107. May 25, 1885.

Claimant, while a prisoner of war, enlisted in the rebel service. To the proposition that such enlistment was not a voluntary act the Commissioner declined to yield assent, and held, that while the claimant's enlistment in the service of the enemy for the purpose of furnishing him an early opportunity to escape to the Federal lines practically illustrated his shrewdness, it certainly did not avouch his patriotism. A soldier is called upon to face death in many forms, to be shot on the field of battle, to be starved in captivity, and in other ways to exhibit his willingness to sacrifice his life for his country. There is no justification, however, for his enlistment under the enemy's standard, and thus, even if for a limited time, giving him aid and comfort.

If it were allowable for a captured soldier to join the enemy for the purpose of escaping the privations and hardships of prison life, the principle would be established that a prisoner of war would become simply a recruit for the enemy. In law a man's intentions and motives are to be judged by his overt acts. Such being the case, and in view of the provisions of the statute, it must be held that the soldier did render voluntary aid and comfort to the late rebellion against the authority of the United States. The claim should be rejected, and in this and all similar cases Congress alone can grant relief.

William Dawson. App. No. 229,207.

RULING No. 121. July 20, 1885.

Where soldier, after having aided, abetted, or engaged in the late rebellion against the authority of the United States, afterwards voluntarily enlisted in the Army of the United States, whether during the rebellion

DISLOYALTY—Continued.

or since its termination, and who became disabled in the line of duty in the latter service, is entitled to pension for such disability.

Act of March 3, 1877. Case of — Cressy. App. No. 291,129.

ORDER OF THE COMMISSIONER OF PENSIONS.

ORDER No. 29. January 21, 1874.

In cases in which the name of a pensioner has been dropped from the rolls under the act of February 4, 1862, and application for restoration is made, the applicant will be required, in lieu of the oath and evidence heretofore prescribed in such cases, to testify that he or she has not in any manner voluntarily engaged in, or aided, or abetted the late rebellion against the authority of the United States, and to prove the facts by the testimony of two witnesses whose credibility must be certified as required by the circular heretofore in use.

See SERVICE PENSIONS, WAR OF 1812, par. 9.

DIVISION OR DIVERSION OF PENSION.**Section 4745, Revised Statutes.**

As amended by section 2, act of February 28, 1883.

Any pledge, mortgage, sale, assignment, or transfer of any right, claim, or interest in any pension which has been, or may hereafter be, granted, shall be void and of no effect, and any person who shall pledge or receive as a pledge, mortgage, sale, assignment, or transfer of any right, claim, or interest in any pension, or pension certificate, which has been, or may hereafter be granted or issued, or who shall hold the same as collateral security for any debt, or promise, or upon any pretext of such security, or promise, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not exceeding one hundred dollars and the costs of the prosecution; and any person who shall retain the certificate of a pensioner and refuse to surrender the same upon the demand of the Commissioner of Pensions, or a United States pension agent, or any other person authorized by the Commissioner of Pensions, or the pensioner, to receive the same, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not exceeding one hundred dollars and the cost of the prosecution.

Sec. 32, 3 Mar., 1873; sec. 8, 10 April, 1866; sec. 4, 18 Mar., 1818; sec. 2, 7 July, 1838; sec. 2, 6 June, 1866.

Section 4747, Revised Statutes.

No sum of money due, or to become due, to any pensioner shall be liable to attachment, levy, or seizure by or under any legal or equitable process whatever, whether the same remains with the Pension Office, or any officer or agent thereof, or is in course of transmission to the

DIVISION OR DIVERSION OF PENSION—Continued.

pensioner entitled thereto, but shall inure wholly to the benefit of such pensioner.

Sec. 25, 3 Mar., 1873; sec. 3, 6 June, 1880; sec. 2, 7 July, 1832.

Section 4766, Revised Statutes.

"Hereafter no pension shall be paid to any person other than the pensioner entitled thereto, nor otherwise than according to the provisions of this Title; and no warrant, power of attorney, or other paper executed or purporting to be executed by any pensioner to any attorney, claim agent, broker, or other person shall be recognized by any agent for the payment of pensions, nor shall any pension be paid thereon." * * *

Sec. 3, 8 July, 1870. Re-enacted and amended by act 7 August, 1882.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. For the benefit of any person other than the pensioner in invalid cases not allowed.

Whitford, Alfred H. App. No. 32,820. Cox, J. D., Secretary. July 27, 1870. Vol. 2, p. 155.

2. To wife of pensioner not authorized by law.

Collins, William T. Chandler, Z., Secretary. Mar. 30, 1876. Vol. 4, p. 243.

DIVORCE.

See MARRIAGE AND REMARRIAGE.

DRAFTED MEN,**WIDOWS OF, NOT ENTITLED WHERE THERE IS NO RECORD EVIDENCE OF SERVICE.****DECISION OF THE SECRETARY OF THE INTERIOR.**

A widow filed a claim for pension, alleging that her former husband, George Le Fever, was drafted and furnished a substitute, who enlisted in the Second Michigan Regiment, but that her husband contracted his fatal disease while he was a drafted man. The Adjutant General reported that there was no evidence at the War Department showing that Le Fever was ever drafted. The claim was rejected upon the ground that he was not in the military service of the United States at the time he contracted the disease which caused his death. The action of rejection was affirmed by the Secretary, who decided that "the War Department has the custody, under the law, of the records showing who were drafted into the service of the United States in the war of the rebellion. It is the province of that Department to determine whether the person, on account of whose death this claim is made, was in the military service of the United States. No action, looking to the adjudication of the claim, can be taken until proof shall have been furnished to the War Department that Le Fever was in the military service of the United States, and a report to that effect shall have been received from that office."

Parker, Asst. Off. No. 202,202. Kirkwood, S. J., Secretary. Dec. 30, 1881. Vol. 9, p. 58.

DROPPING NAMES OF PENSIONERS FROM THE PENSION ROLL.**Section 4739, Revised Statutes.**

* * * "And the Secretary of the Interior shall cause to be stricken from the pension roll the name of any person whenever it appears, by proof satisfactory, that such name was put upon such roll through false or fraudulent representations."

DECISION OF THE SECRETARY OF THE INTERIOR.

Dropping names of pensioners from pension roll not proper in cases of recurrent diseases (such as rheumatism) although long periods may elapse when the symptoms do not appear. The converse of this proposition is true in pending cases.

Walker, Robert P. Ctf. No. 94,526. Schurz, C., Secretary. Dec. 9, 1890. Vol. 8, p. 66.

RULINGS OF THE COMMISSIONER OF PENSIONS.**RULING No. 96. April 27, 1885.**

Where, after issue of certificate, evidence obtained on special examination shows conclusively that the disability on which claim is based existed prior to enlistment the certificate will be canceled and the pensioner's name dropped from the roll.

Samuel W. Robertson. Ctf. No. 239,440.

RULING No. 102. May 13, 1885.

In a claim based upon rheumatism, rejected November 26, 1872, upon the ground that no disability resulted from alleged disease; reopened and investigated by a special examiner; again rejected November 28, 1876, upon the ground that the disability did not result from rheumatism and was not incurred in line of duty in the service; again reopened upon what appeared to be new and material evidence pertaining to the cause of rejection and showing that claimant had *locomotor ataxia*; case admitted and certificate issued. The attention of the Commissioner being directed to the case, it was ordered to be again specially examined. Evidence obtained during this examination revealed that the new testimony was false and fraudulent, and that heavy outside pressure had been brought to bear to influence favorable action: *Held*, that the case be again, and finally, rejected upon the ground that after repeated opportunities and efforts the claimant had failed to establish by reliable testimony a connection between his present condition and his military service.

J. J. Van Name. App. No. 170,978.

See SUSPENSION OF PENSIONS.

DUPLICATE FOR LOST CHECK, HOW ISSUED.**Section 4770, Revised Statutes (now section 3646).**

Whenever any original check is lost, stolen, or destroyed, disbursing officers and agents of the United States are authorized, after the ex-

DUPLICATE FOR LOST CHECK, HOW ISSUED—Continued.

piration of six months, and within three years from the date of such check, to issue a duplicate check; and the Treasurer, assistant treasurers, and designated depositaries of the United States are directed to pay such duplicate checks, upon notice and proof of the loss of the original checks, under such regulations in regard to their issue and payment, and upon the execution of such bonds, with sureties, to indemnify the United States, as the Secretary of the Treasury shall prescribe. This section shall not apply to any check exceeding in amount the sum of one thousand dollars.

Act 27 Feb., 1867; act 19 Apr., 1871; act 2 Feb., 1872.

DUPLICATE PENSION CERTIFICATES.**DECISION OF THE SECRETARY OF THE INTERIOR.**

Duplicate pension certificates or bounty-land warrants may issue if original be lost, canceled, or destroyed.

George A. Hitchcock. O. H. Browning, Secretary. Feb. 14, 1867. Vol. 2, p. 190.

DUTY, LINE OF.

See LINE OF DUTY.

E.**ENLISTMENT.****DECISION OF THE SECRETARY OF THE INTERIOR.**

Enlistment commences with the date of enrolment.

R. C. Kanyon. Ctf. No. 180,243. C. Delano, Secretary. May 6, 1874. Vol. 3, p. 192.

EPILEPSY.**DECISION OF THE SECRETARY OF THE INTERIOR.**

A soldier was pensioned for epilepsy. While in a fit, and without any fault or improper conduct on his part, he fell into the fire and was badly burned: *Held*, that he is entitled to increase of pension because of the disability resulting from the burns thus received.

James P. Reeves. Ctf. No. 105,710. C. Schurz, Secretary. Apr., 1877. Vol. 4, p. 78.

EVIDENCE.**Section 4739, Revised Statutes.**

Before the name of any person is placed upon the pension-roll under the three preceding sections, proof shall be made, under such regulations as the Secretary of the Interior may prescribe, that the applicant is entitled to a pension under the provisions of the sections herein cited.

* * * * *

Sec. 3, 14 Feb., 1871; see act 9 Mar., 1875.

EVIDENCE—Continued.**Section 4748, Revised Statutes.**

Every person who knowingly or willfully in any wise procures the making or presentation of any false or fraudulent affidavit concerning any claim for pension, or payment thereof, or pertaining to any other matter within the jurisdiction of the Commissioner of Pensions, or who knowingly or willfully presents or causes to be presented at any pension agency any power of attorney or other paper required as a voucher in drawing a pension, which paper bears a date subsequent to that on which it was actually signed or executed, shall be punished by a fine not exceeding five hundred dollars, or by imprisonment for a term not exceeding three years, or by both.

Sec. 33, 8 Mar. 1873; secs. 1, 3, 2 Mar. 1863; sec. 3, 6 June, 1866; sec. 6, 8 July, 1870; see sec. 1, 5 Feb., 1859.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. Evidence is valueless if executed before a notary public or justice of the peace or other party who is attorney of record in the claim in which the same is or may be filed.

See ATTORNEYS, par. 1.

2. Copy of, not to be furnished except upon application for same by the tribunal or department whereif such evidence is to be used.

Lowe, M. F. Delano, C., Secretary. Dec. 10, 1872. Vol. 1, p. 232.

3. Of relatives, if they are disinterested, should be accepted.

Reed, Lydia. App. No. 189,614. Delano, C., Secretary. Sept. 19, 1874. Vol. 3, p. 314.

4. Of other than medical persons may be furnished to show continuance of disability.

Calhoun, W. W. Ctf. No. 122,550. Chandler, Z., Secretary. Jan. 15, 1876. Vol. 3, pp. 180-263.

5. As to origin of disability in line of duty, should be furnished to secure favorable action in invalid claims.

Courson, Lewis R. App. No. 210,306. Schurz, C., Secretary. Feb. 28, 1880. Vol. 7, p. 236.

EVIDENCE, MEDICAL.

Is not absolutely essential for the allowance of a claim where there is no record. The best obtainable evidence should be adduced; no general rule can be adopted, each case being surrounded by different circumstances.

Wolverton, James I. App. No. 204,931. Schurz, C., Secretary. May 7, 1870. Vol. 6, p. 328.

(*Vide* Swinton John. Ctf. No. 55,951. Chandler, Z., Secretary. Dec. 5, 1876. Vol. 4, p. 466.

Weet, William. App. No. 202,496. Kirkwood, S. J., Secretary. June 15, 1881. Vol. 8, p. 302.)

Konney, Lorenzo D. App. No. 171,430. Chandler, Z., Secretary. Dec. 1, 1875. Vol. 4, p. 158.

EVIDENCE, PAROL.

1. If there is no record evidence of service, and no certificate of discharge is furnished, parol evidence is not admissible.

Underhill, Nicholas. App. No. 1,501. Smith, C. B., Secretary. Aug. 13, 1861. Vol. 2, p. 157.

2. In widow's claim for bounty-land not always sufficient in claims for pension.

Howe, Deborah. App. No. 1,888. Usher, J. P., Secretary. Jan. 13, 1864. Vol. 2, p. 173.

See EVIDENCE, WEIGHT OR SUFFICIENCY OF, *par.* 2.

3. May be furnished to show continuance of disability.

Calhoun, W. W. Ctf. No. 122,550. Chandler, Z., Secretary. Jan. 15, 1876. Vol. 4, pp. 180-265.

4. May be received to show that soldier served as a substitute.

Bartlett, Matilda. App. No. 14,421. Schurz, C., Secretary. Dec. 21, 1878. Vol. 6, p. 198.

See OLD WARS, *pars.* 2, 3, 4.

EVIDENCE, RECORD.

1. Record, such as "killed at Groverton," not sufficient to prove that soldier was killed in battle.

Webber, Avis M. App. No. 26,465. Usher, J. P., Secretary. Oct. 16, 1864. Vol. 2, p. 177.

2. Correctness of, cannot be judged by the Commissioner of Pensions nor questioned by the Secretary of the Interior. Additional evidence filed to change the records of the War Department should be forwarded to that Department without question.

Walcott, W. A. App. No. 151,095. Delano, C., Secretary. Apr. 13, 1875. Vol. 4, p. 4.

Root, Leopold. App. No. 115,626. Cowen, B. R., Acting Secretary. Oct. 8, 1875. Vol. 4, p. 129.

3. Is not conclusive as to origin of disease in service and line of duty.

Herron, Andrew J. App. No. 177,322. Chandler, Z., Secretary. Dec. 5, 1876. Vol. 4, p. 464.

RULING OF THE COMMISSIONER OF PENSIONS.

RULING No. 59. March 7, 1871.

When the war records show capture and subsequent death in prison, proof as to circumstances of capture, or as to cause of death, will not be required, unless records show that soldier was not in line of duty.

ORDER OF THE COMMISSIONER OF PENSIONS.

ORDER No. 25. August 8, 1873.

Upon reference of evidence that Rufus E. Woods, invalid claim No. 167,145, was wounded at Mission Ridge, and inquiry of this office—whether said soldier was wounded in action—the Adjutant-General indorsed: "The soldier is considered as having been wounded in action in said battle. Unless the remarks on the rolls show otherwise, a soldier reported as wounded, say at Mission Ridge, Gettysburg, or the Wilderness, or any other battle-field, is considered as having been *wounded in action*, and, therefore, amendment of the record is unnecessary."

EVIDENCE, RECORD—Continued.

Said declaration of the intent of the phrase "*wounded at Mission Ridge November 25, 1863,*" or at any other place, and on any other day, where and when an action is known to have been fought, will be accepted by this office without further inquiry.

EVIDENCE, WEIGHT OR SUFFICIENCY OF.**DECISIONS OF THE SECRETARY OF THE INTERIOR.**

1. Claimant's error as to the name of his disease, or as to the date of its incurrence, and conflicting testimony on those points does not invalidate facts otherwise shown.

Knight, Stephen. Smith, C. B., Secretary. June 26, 1861. Vol. 1, p. 8.

Reah, Elizabeth. App. No. 61,070. Browning, O. H., Secretary. Oct. 9, 1866. Vol. 2, p. 1.

Lee, Solomon. App. No. 38,686. Browning, O. H., Secretary. Oct. 10, 1866. Vol. 2, p. 190.

Parr, Richard V. App. No. 26,916. Delano, C., Secretary. Apr. 20, 1874. Vol. 3, p. 179.

2. The evidence which is sufficient to establish a bounty-land claim where cause of death or disability is *not* required to be shown is *not* sufficient to establish a pension claim in which said facts *are* required to be proved, and the pension, therefore, cannot commence from the date of completing the bounty-land claim.

Howe, Deborah. No. 1,888. Usher, J. P., Secretary. Jan. 13, 1864. Vol. 2, p. 173.

3. Unsworn statements cannot be accepted to outweigh affidavits.

Brooks, Samuel. Ctf. No. 91,819. Delano, C., Secretary. Nov. 30, 1872. Vol. 1, p. 220.

4. The Commissioner of Pensions cannot judge as to the sufficiency of evidence which is filed to change the record of another Department.

Walcott, W. A. Delano, C., Secretary. Apr. 13, 1875. Vol. 4, pp. 4-10.

5. Where increase of pension is based on obesity resulting from loss of leg: *Held*, that such connection cannot be established by conclusive proof, and it is not sufficiently probable to warrant allowance of increase of pension.

Clayton, George. Ctf. No. 46,471. Schurz, C., Secretary. June 21, 1878. Vol. 5, p. 496.

6. It is a rule of law that in the absence of the best testimony the next best may be accepted.

* * * * *

It should not be required that a surgeon, in his examination of a claimant for pension, must give a technical name to the disability found to exist. It is sufficient if the fact is shown by credible witnesses, whether medical or not, that the soldier has been disabled, and that he contracted the disability in the line of duty in the service. The fact that surgeons who examined the claimant in 1881 discovered the same disease upon him that he was treated for in 1862 is a circumstance in favor of the claim.

No reasonable presumption adverse to the claim can be derived from the fact that he was of advanced age at the date of enlistment. If the

EVIDENCE, WEIGHT OR SUFFICIENCY OF—Continued.

Government chose to accept him as a soldier, notwithstanding his age, it would not be justified in taking advantage of that circumstance after he has become disabled in the service, in considering a claim for pension for such disability.

Willis, William. No. 263,304. Teller, H. M., Secretary. Nov. 17, 1883. Vol. 11, p. 62.

7. At the second special examination the appellant produced a number of witnesses who swore that they were more or less intimately acquainted with him before he enlisted and that they never observed anything wrong with his eyes.

Statements of this kind have very little value as evidence. The testimony of a person who did observe cannot be overcome by that of a person who did not observe. It can only be overcome by showing that the witness is unworthy of belief, or by proof of some actual facts or circumstances which, in themselves, controvert his testimony.

Howard, Joseph. No. 215,203. Joslyn, M. L., Acting Secretary. Apr. 14, 1884. Vol. 11, p. 198.

• **RULINGS OF THE COMMISSIONER OF PENSIONS.**

RULING No. 18. March 7, 1871.

Where the soldier is borne on the rolls as killed on a given date, the testimony of an officer that he was killed by the enemy, while in the line of duty, will be sufficient as to death, without requiring such a showing of the facts as to enable the office to judge for itself whether the soldier was in the line of duty.

RULING No. 19. June 6, 1871.

In all cases where the applicant for pension under act of February 14, 1871, received a bounty-land warrant, testimony which this office accepted as proof in the settlement of the claim for said warrant will be taken as conclusive upon the same points presented in the case: *Provided*, There be no suspicion that such evidence was fraudulently procured or erroneously applied in the bounty-land case.

RULING No. 76. March 29, 1883.

The reason for the rule which requires that claimant should furnish the proof of a commissioned officer, when possible, being that the officer whose duty it was to oversee and keep a record of the men under his command, is better able to speak as to the disabilities of any individual than comrades, as his mind is charged constantly with their affairs, applies with equal or greater force to a first (orderly) sergeant. Hereafter the testimony of a first sergeant, who speaks with knowledge, will be accepted as of the same grade, and entitled to the same precedence, as that of a commissioned officer.

RULING No. 103. May 14, 1885.

Where a claim for pension was made on account of an obscure disability (piles), alleged to have been contracted in 1863, and it appeared

EVIDENCE, WEIGHT OR SUFFICIENCY OF—Continued.

that none of the officers of the claimant's company or surgeons of his regiment were cognizant of his disability, and that all the comrades who were said to have a knowledge of it are dead: *Held*, that in view of the fact that the claim was not filed until seventeen years after claimant's discharge, and the proof tending to show the continuance of the alleged disability since that date being insufficient, the evidence filed is not sufficient to warrant the favorable consideration of the claim, and that claimant must seek relief from Congress.

Case of Truman Ash. App. No. 465,373.

RULING No. 126. July 30, 1885.

Where the inherent probabilities are adverse to a claimant's right to pension, but all the evidence on file is favorable thereto, unless the right and the positive weight of evidence is destroyed by those probabilities the evidence will prevail and the claim will be admitted.

Case of the widow of John Lively. App. No. 294,861. Order book, p. 75.

RULING No. 144. November 11, 1885.

Where a claimant alleged "hernia," incurred during confinement in rebel prison, and was unable to furnish evidence of officers and comrades as to the circumstances of origin, although he had filed testimony to show that he was free from hernia when he was captured, and that he was suffering from that disability when he returned to his command, the Commissioner *held*, That from the very nature of the case, separated as the claimant was from his comrades, and in the hands of the enemy, he has furnished the best evidence he can obtain, and that, in the absence of any adverse testimony, origin in service and line of duty will be accepted and his claim will be admitted.

Matherby, Daniel H. App. No. 316,127. Order book, p. 103.

EXAMINING SURGEONS.**Section 4774, Revised Statutes.**

Superseded by section 4 of act of July 25, 1882, as follows :

"SEC. 4. That the Commissioner of Pensions is hereby authorized to appoint surgeons who, under his control and direction shall make such examination of pensioners and claimants for pension or increased pension as he shall require; and he shall organize boards of surgeons, to consist of three members each, at such points in each State as he shall deem necessary, and all examinations, so far as practicable, shall be made by the boards, and no examination shall be made by one surgeon excepting under such circumstances as make it impracticable for a claimant to present himself before a board: *Provided*, That the Commissioner may, when in his opinion the exigencies of the service require it, organize a board of three surgeons who, under his direction, shall review the work of any regularly-appointed board or surgeon: *Provided*

EXAMINING SURGEONS—Continued.

further, That all examinations shall be thorough and searching, and the certificate contain a full description of the physical condition of the claimant at the time, which shall include all the physical and rational signs and a statement of all structural changes.

Sec. 36, 3 Mar., 1873; sec. 8, 4 July, 1864. For original section see Addenda.

"The fee for each examination, and satisfactory certificate thereof, shall be two dollars to each member when made by a board, and two dollars when made by one surgeon: *Provided*, That when a claimant is so disabled as not to be able to present himself to a board of surgeons for examination, the Commissioner may order a surgeon to make the examination at the claimant's residence; and the fee for such examination shall be two dollars, in addition to the payment of the actual traveling expenses of the surgeon: *Provided further*, That no fee shall be allowed or paid to any member of such board of examining surgeons who does not actually participate in such examination and sign the certificate thereof.

See amendment by act 3 Mar., 1886.

"The Commissioner may, when in his judgment the degree of disability cannot be determined truthfully or satisfactorily excepting by expert examination, employ an expert, not a regularly-appointed surgeon, to make the examination; and the fee for such examination shall be five dollars: *Provided*, That the fee for an expert examination shall not be paid to any regularly-appointed examining surgeon.

"The fee for the examination of claimants who reside out of the United States shall not exceed ten dollars, which shall be paid, upon the presentation of satisfactory vouchers, out of the appropriation for the payment of the examining surgeons, and through the United States consulate nearest to the claimant's place of residence."

Act of July 25, 1882.

Amended by act of March 3, 1885, as follows:

"And each member of each examining board shall, as now authorized by law, receive the sum of two dollars for the examination of each applicant whenever five or a less number shall be examined on any one day, and one dollar for the examination of each additional applicant on such day: *Provided*, That if twenty or more applicants appear on one day, no fewer than twenty shall, if practicable, be examined on said day, and that if fewer examinations be then made, twenty or more having appeared, then there shall be paid for the first examinations made on the next examination day the fee of one dollar only until twenty examinations shall have been made."

See sec. 4, act 25 July, 1882.

EXAMINING SURGEONS—Continued.**Section 4775, Revised Statutes.**

Examining surgeons duly appointed by the Commissioner of Pensions, and such other qualified surgeons as may be employed in the Pension Office, may be required by him, from time to time, as he deems for the interest of the Government, to make special examinations of pensioners or applicants for pension, and such examinations shall have precedence over previous examinations, whether special or biennial; but when injustice is alleged to have been done by an examination so ordered, the Commissioner of Pensions may, at his discretion, select a board of three duly appointed examining surgeons, who shall meet at a place to be designated by him, and shall review such cases as may be ordered before them on appeal from any special examination, and the decision of such board shall be final on the question so submitted thereto, provided the Commissioner approve the same. The compensation of each of such surgeons shall be three dollars, and shall be paid out of any appropriations made for the payment of pensions, in the same manner as the ordinary fees of appointed surgeons are or may be authorized to be paid.

Sec. 37, 3 March, 1873.

Section 4777, Revised Statutes.

The Commissioner of Pensions is empowered to appoint, at his discretion, civil surgeons to make the periodical examinations of pensioners which are or may be required by law, and to examine applicants for pension, where he deems an examination by a surgeon appointed by him necessary; and the fee for such examinations, and the requisite certificates thereof, in duplicate, including postage on such as are transmitted to pension agents, shall be two dollars, which shall be paid by the agent for paying pensions in the district within which the pensioner or claimant resides, out of any money appropriated for the payment of pensions, under such regulations as the Commissioner of Pensions may prescribe.

Sec. 35, 3 Mar., 1873; sec. 8, 14 July, 1882; see sec. 8, 4 July, 1884.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. Examining surgeons should not inform the party examined of the result of examination.

Krise, O. H. P. Ct. No. 15,652. Delano, C., Secretary. June 25, 1874. Vol. 3, pp. 234, 249.

2. Examining surgeons have no authority to determine whether a disability is "permanent" and "specific" in the sense contemplated by section 4698½, Revised Statutes.

Kent, George E. App. No. 159,143. Chandler, Z., Secretary. Sept. 1, 1876. Vol. 4, p. 389.

EXAMINING SURGEONS—Continued.**RULING OF THE COMMISSIONER OF PENSIONS.****RULING No. 20. February 6, 1873.**

By direction of the Assistant Secretary the mention of "board of examining surgeons" in the instructions under date of January 20, 1873, relating to the increase of pensions and the weight of the report of examining surgeons, is to be understood as referring solely to boards of examining surgeons appointed upon appeal from alleged injustice done by reports of special examinations in accordance with section 8, act of July 4, 1864.

ORDER OF THE COMMISSIONER OF PENSIONS.**ORDER No. 77. March 15, 1882.**

Examining surgeons, being officers in the service of this Bureau, and amenable to its discipline, their unsworn statements will be accepted as evidence in pending claims, subject to the exception that when title to a pension in doubtful cases rests on their evidence alone an affidavit may be required.

EXAMINING SURGEON'S CERTIFICATES.**DECISIONS OF THE SECRETARY OF THE INTERIOR.**

1. Should determine rate of pension in absence of opposing evidence, unless there is ground for suspecting collusion or fraud.

Nolte, Henry. Ctf. No. 85,047. Browning, O. H., Secretary. Jan. 10, 1868. Vol. 2, p. 65.

2. Should not be considered as being either "record" or "parol" evidence. They do not constitute such evidence as is required by law to establish a claimant's right to pension. They go to show merely the degree of pensionable disability, if any exists.

Hestettler, Peter M. App. No. 124,787. Cowen, B. R., Acting Secretary. Jan. 23, 1873. Vol. 1, p. 263.

3. Copies of, should not be furnished to attorneys.

Jones, Lewis J. No. 13,480. Delano, C., Secretary. Sept. 19, 1874. Vol. 3, p. 312. Also case of Cluck, John. Ctf. No. 25,802. Bell, A., Acting Secretary. June 23, 1877. Vol. 5, p. 141.

4. Date of, governs commencement of increase, except in cases of specific disability.

Kelly, Michael. Ctf. No. 45,833. Delano, C., Secretary. Nov. 18, 1874. Vol. 3, p. 353.

5. Should not be disapproved or disregarded, except for good and sufficient reasons.

Smith, Sheridan B. App. No. 159,143. Cowen, B. R., Acting Secretary. Nov. 27, 1874. Vol. 2, p. 373.

6. Cannot be set aside or controverted by the testimony of family physicians or neighbors, especially where such certificates were made by

EXAMINING SURGEON'S CERTIFICATES—Continued.

a board of examining surgeons based upon a careful examination of the party in interest.

Atwell, Joseph. App. No. 224,903. Schurz, C., Secretary. Sept. 8, 1877. Vol. 5, p. 295 (*Vide* Bernard, Mdo H. App. No. 218,262. Schurz, C., Secretary. Oct. 28, 1880. Vol. 8, p. 44.)

Hensley, John W. No. 227,800. Teller, H. M., Secretary. Apr. 30, 1884. Vol. 11, p. 221. See also case of Naylor, James. No. 408,282. Teller, H. M., Secretary. May 1, 1884. Vol. 11, p. 237, and cases of—

Fair, Shuball B. Ctf. No. 242,772. Teller, H. M., Secretary. May 1, 1884. Vol. 11, p. 239.

Wally, James S. No. 302,333. Teller, H. M., Secretary. May 1, 1884. Vol. 11, p. 232.

7. The report of a board of examining surgeons cannot be set aside by the certificate of a single surgeon. The principle that an examination by a board of surgeons should take precedence over the examination of a single surgeon is recognized in law.

Wyatt, William J. App. No. 203,129. Schurz, C., Secretary. July 18, 1877. Vol. 5, p. 150.

NOTE.—Same principle involved in the following decision:

An applicant for pension was examined by a single examining surgeon October 29, 1880, and his disability was rated at one-fourth and his pension was allowed at that rate from date of discharge. He appealed for an examination by a board of surgeons, as provided in section 4775, Revised Statutes, and was examined by such board August 17, 1881, who rated his disability at one-half: *Held*, on appeal, that the examination by the board of surgeons superseded that of the single surgeon and that the pension should be allowed at the rate of one-half from said October 29, 1880, there being no evidence to show that the claimant "is entitled to that rate for any prior period." It was also held that the question was not one of the commencement of increase of pension under section 4698½ Revised Statutes.

Barnard, Charles H. Ctf. No. 186,553. Kirkwood, S. J., Secretary. Dec. 13, 1881. Vol. 9, p. 31.

EXECUTORS.

See ARREARS, *par.* 2.

F.**FATHERS, DEPENDENT.**

See DEPENDENCE (FATHERS).

FEEs OF AGENTS AND ATTORNEYS.

Section 4711, Revised Statutes.

* * * "And no claim agent or other person shall be entitled to receive any compensation for services in making application for arrears of pension."

Sec. 13, 3 Mar., 1873; acts 25 Jan., and Mar. 3, 1879.

FEE OF AGENTS AND ATTORNEYS—Continued.**Section 4768, Revised Statutes.**

The Commissioner of Pensions shall forward the certificate of pension, granted in any case, to the agent for paying pensions where such certificate is made payable, and at the same time forward therewith one of the articles of agreement filed in the case and approved by the Commissioner, setting forth the fee agreed upon between the claimant and the attorney or agent; and where no agreement is on file, as heretofore provided, he shall direct that a fee of ten dollars only be paid the agent or attorney.

Sec. 9, 8 July, 1870; sec. 6, 14 July, 1863; sec. 12, 4 July, 1864; repealed as to new cases (see act 20 June, 1878); see act 20 July, 1878; see sec. 4, 25 Jan., 1879.

Section 4769, Revised Statutes.

It shall be the duty of the agent paying such pension to deduct from the amount due the pensioner the amount of fees so agreed upon or directed by the Commissioner to be paid where no agreement is filed and approved, and to forward or cause to be forwarded to the agent or attorney of record named in such agreement, or, in case there is no agreement, to the agent prosecuting the case, the amount of the proper fee, deducting therefrom the sum of thirty cents in payment of his services in forwarding the same.

See sec. 4, 25 Jan., 1879; sec. 10, 8 July, 1870; repealed as to new cases (see act 20 June, 1878); see appropriation act 20 June, 1874; repealed as to deduction of fee of thirty cents, see act June 14, 1878.

Section 4, act of January 25, 1879.

"No claim agent or other person shall be entitled to receive any compensation for services in making application for arrears of pension."

Act of July 4, 1884.

* * * "That the act entitled 'An act relating to claim agents and attorneys in pension cases,' approved June twentieth, eighteen hundred and seventy-eight, is hereby repealed: *Provided, however,* That the rights of the parties shall not be abridged or affected as to contracts in pending cases, as provided for in said act; but such contracts shall be deemed to be and remain in full force and virtue, and shall be recognized as contemplated by said act.

"SEC. 2. That sections forty-seven hundred and sixty-eight, forty-seven hundred and sixty-nine, and forty-seven hundred and eighty-six of the Revised Statutes are hereby made applicable also to all cases hereafter filed with the Commissioner of Pensions, and to all cases so filed since June twentieth, eighteen hundred and seventy-eight, and which have not been heretofore allowed, except as hereinafter provided.

"SEC. 3. That section forty-seven hundred and eighty-five of the Revised Statutes is hereby re enacted and amended so as to read as follows:

"No agent or attorney or other person shall demand or receive any

FEEES OF AGENTS AND ATTORNEYS—Continued.

other compensation for his services in prosecuting a claim for pension or bounty-land than such as the Commissioner of Pensions shall direct to be paid to him, not exceeding twenty-five dollars; nor shall such agent, attorney, or other person demand or receive such compensation, in whole or in part, until such pension or bounty-land claim shall be allowed: *Provided*, That in all claims allowed since June twentieth, eighteen hundred and seventy-eight, where it shall appear to the satisfaction of the Commissioner of Pensions that the fee of ten dollars, or any part thereof, has not been paid, he shall cause the same to be deducted from the pension, and the pension agent to pay the same to the recognized attorney.'

Sec. 3, act 4 July, 1864; sec. 31, 3 Mar., 1873; secs. 6, 7, 14 July, 1862; secs. 12, 13, 4 July, 1864; sec. 3, 8 July, 1870.

"SEC. 4. That section forty-seven hundred and eighty-six of the Revised Statutes is hereby amended so as to read as follows:

"The agent or attorney of record in the prosecution of the case may cause to be filed with the Commissioner of Pensions duplicate articles of agreement without additional cost to the claimant, setting forth the fee agreed upon by the parties, which agreement shall be executed in the presence of and certified by some officer competent to administer oaths. In all cases where application is made for pension or bounty-land, and no agreement is filed with the Commissioner as herein provided, the fee shall be ten dollars and no more. And such articles of agreement as may hereafter be filed with the Commissioner of Pensions are not authorized, nor will they be recognized except in claims for original pensions, claims for increase of pension on account of a new disability, in claims for restoration where a pensioner's name has been or may hereafter be dropped from the pension-rolls on testimony taken by a special examiner, showing that the disability or cause of death on account of which the pension was allowed did not originate in the line of duty, and in cases of dependent relatives whose names have been or may hereafter be dropped from the rolls on like testimony, upon the ground of non-dependence, and in such other cases of difficulty and trouble as the Commissioner of Pensions may see fit to recognize them: *Provided*, That no greater fee than ten dollars shall be demanded, received, or allowed in any claim for pension or bounty-land granted by special act of Congress, nor in any claim for increase of pension on account of the increase of the disability for which the pension had been allowed: *And provided further*, That no fee shall be demanded, received, or allowed in any claim for arrears of pension or arrears of increase of pension allowed by any act of Congress passed subsequent to the date of the allowance of the original claims in which such arrears of pension or of increase of pension may be allowed.

Sec. 7, 8 July, 1870; see sec. 6, 14 July, 1862; see sec. 12, 4 July, 1864; see sec. 4, 6 June, 1866; see sec. 4768 R. S.; see sec. 4, 25 Jan., 1879; see, for penalty, sec. 5485 R. S., re-enacted in section 8 of this act.

FEES OF AGENTS AND ATTORNEYS—Continued.

"The articles of agreement herein provided for shall be in substance as follows, to wit:

ARTICLES OF AGREEMENT.

Whereas I, ———, late a ———, in Company —, of the ——— Regiment of ——— Volunteers, war of 1861 [or, if the service be different, here state the same], having made application for pension under the laws of the United States:

Now, this agreement witnesseth that, for and in consideration of services done and to be done in the premises, I hereby agree to allow my attorney, ———, of ———, the fee of ——— dollars, which shall include all amounts to be paid for any service in furtherance of said claim; and said fee shall not be demanded by or payable to my said attorney [or attorneys], in whole or in part, except in case of the granting of my pension by the Commissioner of Pensions; and then the same shall be paid to him [or them] in accordance with the provisions of sections 4768 and 4769 of the Revised Statutes.

[Claimant's signature.]

[Two witnesses' signatures.]

STATE OF ———,

County of ———, ss:

Be it known that on this the — day of ———, A. D. 188—, personally appeared the above-named ———, who, after having had read over to ———, in the hearing and presence of the two attesting witnesses, the contents of the foregoing articles of agreement, voluntarily signed and acknowledged the same to be ——— free act and deed.

[Official signature.]

And now, to wit, this — day of ———, A. D. 188—, I [or we] accept the provisions contained in the foregoing articles of agreement, and will, to the best of my [or our] ability, endeavor faithfully to represent the interest of the claimant in the premises.

Witness my [or our] hand, the day and year first above written.

[Signature of attorney.]

STATE OF ———,

County of ———, ss:

Personally came ———, whom I know to be the person he represents himself to be, and who, having signed above acceptance of agreement, acknowledged the same to be ——— free act and deed.

[Official signature.]

"And if in the adjudication of any claim for pension in which such articles of agreement have been or may hereafter be filed it shall appear that the claimant had, prior to the execution thereof, paid to the attorney any sum for his services in such claim, and the amount so paid is not stipulated therein, then every such claim shall be adjudicated in the same manner as though no articles of agreement had been filed, deducting from the fee of ten dollars allowed by law such sum as claimant shall show that he has paid to his said attorney.

"Any agent or attorney or other person instrumental in prosecuting any claim for pension or bounty land who shall directly or indirectly contract for, demand, or receive or retain any greater compensation for his services or instrumentality in prosecuting a claim for pension or bounty land than is herein provided, or for payment thereof at any other time

FEEs OF AGENTS AND ATTORNEYS—Continued.

or in any other manner than is herein provided, or who shall wrongfully withhold from a pensioner or claimant the whole or any part of the pension or claim allowed and due such pensioner or claimant, or the land warrant issued to any such claimant, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall for every such offense be fined not exceeding five hundred dollars, or imprisoned at hard labor not exceeding two years, or both, in the discretion of the court.

* * * * *

Act 3 March, 1873; see sec. 5485, R. S.

(For sec. 5 see ATTORNEYS.)

"SEC. 6. The Commissioner shall have power, subject to review by the Secretary, to reject or refuse to recognize any contract for fees, herein provided for, whenever it shall be made to appear that any undue advantage has been taken of the claimant in respect to such contract."

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. None payable under fee agreement unless approved by Commissioner of Pensions.

Instructions: Cox, J. D., Secretary. Aug. 19, 1870. Vol. 1, p. 88.

2. Fee of \$10 only allowed attorney in claims completed prior to July 8, 1870.

Hanson, John D. No. 141,263. Delano, C., Secretary. Nov. 11, 1870. Vol. 1, p. 89.

3. None due for obtaining transfer of payment of pension.

Burns, John. Ctf. No. 65,043. Delano, C., Secretary. Feb. 11, 1871. Vol. 1, p. 100.

4. None due for obtaining duplicate pension certificate.

Hynes, John. Ctf. No. 72,981. Delano, C., Secretary. Sept. 12, 1871. Vol. 1, p. 121; vol. 2, p. 115.

5. None due for services in claims under act of June 8, 1872, for increase of pension.

Shuback, Jacob. Ctf. No. 111,237. Delano, C., Secretary. July 13, 1872. Vol. 1, p. 297.

6. Payable at time of first payment of pension, not before.

Rynes, M. W. Ctf. No. 12,837. Delano, C., Secretary. Dec. 20, 1872. Vol. 1, p. 238.

7. Where articles of agreement for \$25 were filed in a claim under the provisions of the general pension laws and it was rejected, and afterward a pension was granted the claimant by a special act, it was held that the attorney was not entitled to the contract fee, for the reason that the claim was not prosecuted to a successful issue before the Pension Office. Payment of a fee of \$10 according to former practice in such cases *approved*.

Johnson, Edwin. Ctf. No. 129,642. Delano, C., Secretary. Nov. 19, 1874. Vol. 3, p. 256.

Wood, Warren F. No. 156,375. Schurz, C., Secretary. Jan. 3, 1879. Vol. 6, p. 250.

Toland, Robert S. Ctf. No. 158,985. Kirkwood, S. J., Secretary. Dec. 13, 1881. Vol. 9, p. 34.

Sanders, Benjamin. No. 164,152. Joslyn, M. L., Acting Secretary. Aug. 16, 1884. Vol. 11, p.

FEEES OF AGENTS AND ATTORNEYS—Continued.

8. Agreements as to, if executed before the attorney of record himself, are not binding.

Menter, Jacob. Ctf. No. 130,945. Delano, C., Secretary. Jan. 18, 1875. Not recorded.

9. None due if attorney abandons prosecution of the claim.

Batchelder, Mrs. E. A. App. No. 192,776. Delano, C., Secretary. June 8, 1875. Vol. 4, p. 63.

10. None due in claims of minors for increase of pension.

Whitley, W. D., minors of. Ctf. No. 147,790. Delano, C., Secretary. Aug. 24, 1875. Vol. 4, p. 99.

11. None due in claims where the rates of pension for specific disabilities are increased by law.

Hall, John W. Ctf. No. 47,066. Chandler, Z., Secretary. Nov. 20, 1875. Vol. 4, p. 150.

12. Of \$10 allowable in cases in which fee agreements fail to specify a certain sum.

Preston, W. E. (attorney). Gorham, Charles F., Acting Secretary. July 12, 1876. Vol. 4, p. 338.

13. Contracts for, filed in bounty-land claims under the general law, do not apply to special act claims.

Niles, S. V. Schurz, C., Secretary. Jan. 10, 1879. Vol. 6, p. 221.

14. Payment of fee to an attorney in case where certificate was issued after death of applicant having no child under sixteen years of age: *Held*, that the allowance, if any, must be determined by section 4718, R. S., which contemplates that the fee should be paid only when the pension is paid.

King, Sarah, widow of King, William H. No. 133,002. Schurz, C., Secretary. Aug. 12, 1879. Vol. 6, p. 437.

15. Where payment of fee of \$25 was declined upon the ground that contracts were not filed in duplicate, copy of original accepted to supply deficiency and payment of fee authorized as though duplicate contracts were originally filed.

Jamieson, Henry. Ctf. No. 163,782. Schurz, C., Secretary. Jan. 29, 1880. Vol. 7, p. 192.

16. Contracts for, are not valid if made with a minor.

Sargent, William, minors of. Ctf. No. 179,986. Schurz, C., Secretary. Feb. 17, 1880. Vol. 7, p. 220.

17. Where fee of \$25 was paid to an attorney through oversight, said attorney having neglected the case for more than two years, the second attorney having completed the claim: *Held*, that the office should request the return of \$10, the same to be paid to the second attorney, this being the amount to which he would be entitled under the law.

Barrett, George A. Ctf. No. 163,664. Schurz, C., Secretary. Mar. 6, 1880. Vol. 7, p. 248.

18. A fee cannot be demanded or received by an attorney from a claimant on a claim which proved to be a duplicate of one filed prior to June 20, 1878 (see sections 4768, 4769, and 4786, Revised Statutes). The pro-

FEEs OF AGENTS AND ATTORNEYS—Continued.

visions of law in these sections are rendered inoperative only in claims filed after June 20, 1878, and in pending claims in which claimant had been represented by an attorney prior to that date. The fee taken in advance is illegal and should be returned to the claimant.

Garrison, Malachi. App. No. 228,828. Schurz, C., Secretary. May 14, 1880. Vol. 7, p. 348.

19. Contracts for, filed under section 4786, Revised Statutes, where the amount to be paid is not designated therein, are informal, and action of office, authorizing the payment of a fee of \$10, *approved*.

Ware, Charles K. Ctf. No. 188,545. Schurz, C., Secretary. Aug. 16, 1880. Vol. 7, p. 457.

20. Cannot be paid out of accrued pension money after the death of the pensioner.

Shanger, Catharine. Ctf. No. 188,155. Bell, A., Acting Secretary. Oct. 4, 1880. Vol. 8, p. 38.
(See sections 4718, 4768, and 4769, Revised Statutes.)

(See, also, decision of Assistant Secretary H. L. Muldrow, dated June 23, 1885, in the case of Frederick Englehart. Ctf. No. 208,044.)

21. Where an attorney receives a part of his legal fee in advance, the Commissioner of Pensions will withhold the usual direction to the pension agent to pay the fee until the attorney refunds the amount received in advance.

Pratt, John N. Ctf. No. 172,378. Schurz, C., Secretary. Feb. 14, 1881. Vol. 8, p. 141. (Sections 4768, 4769, and 4786, Revised Statutes, and act of June 20, 1878.)

22. Attorneys will not be allowed to receive any other sum than that specified in the law for their services in prosecuting claims.

Wilkinson, Ross. Ctf. No. 170,125. Kirkwood, S. J., Secretary. May 8, 1881. Vol. 8, p. 242. (See act of June 20, 1878.)

23. When an attorney has been paid a fee for his services in obtaining the allowance of a widow's pension claim at the rate of \$8 per month from the date of her husband's death, the reopening of such claim for the consideration of the question of the right of such widow to a higher rate of pension, upon the ground that her husband held a higher rank than that of sergeant at the time he contracted the fatal disease, "does not give the attorney the right to demand another fee, for the reason that all evidence necessary to determine the proper rate of pension should have been filed before the claim was adjudicated."

Godfrey, Ellen M. Ctf. No. 188,922. Kirkwood, S. J., Secretary. Dec. 19, 1881. Vol. 9, p. 43.

24. On instructions received from the Secretary and Acting Secretary of the Interior, dated, respectively, November 21 and 28, 1882, as to the fees of attorneys in the classes of cases therein mentioned, Order No. 86 was modified, and Order No. 89 was promulgated, as follows, viz :

(1) The fee due the attorney, where there is no "contract, will be withheld by the pension agent until the claim is settled upon all the disabilities alleged, and then paid upon order of this Office."

(2) In cases where there is a contract, ten dollars of the fee will be paid upon the issue of the first certificate, "and the rest of the fee will

FEES OF AGENTS AND ATTORNEYS—Continued.

be withheld by the pension agent till ordered to pay on the final settlement of the claim."

Instructions: Teller, H. M., Secretary, and Joslyn, M. L., Acting Secretary. Vol. 9, pp. 467 and 477.

25. A claim for an original invalid pension was filed in this office prior to June 20, 1878, and when allowed the pension agent was directed to pay the fee of \$10 (there being no fee agreement) to the attorney. On the receipt of the order the pension agent returned the same to this office, with the information that such fee had been paid by the claimant to the attorney in person.

On appeal it was held that the attorney, having received his legal fee direct from the claimant, was not entitled to the fee of \$10 ordered to be paid him by the pension agent, and the proposition of this Office to destroy the fee order was approved.

Rittenhouse, J. H. (J. F. Goddard, att'y.) Ctf. No. 205,702. Teller, H. M., Secretary. Apr. 14, 1883. Vol. 10, p. 305.

26. A claim for invalid pension was allowed in May, 1866, and on the certificate of the pensioner's medical examination in 1871, that his disability had ceased to exist, his name was dropped from the pension roll for that reason. He filed a claim for her restoration August, 1874, through his duly authorized attorney, who was succeeded by the present appellants, who prosecuted the claim to a successful issue, and the pensioner's name was restored to the roll.

It was held, on appeal, that the appellants were entitled to a fee of \$10 for their services in prosecuting the claim.

Wideawake, H. I. (Sanborn & King, att'ys.) Ctf. No. 64,182. Teller, H. M., Secretary. Apr. 17, 1883. Vol. 10, p. 305.

27. B. D. Hyam, the original attorney, filed May 15, 1878, "duplicate articles of agreement in which the applicant agreed to pay to him or to his assigns, the sum of \$20 for prosecuting the claim successfully." He transferred his business to Messrs. Pennebaker & Son, who prosecuted the claim to a successful termination.

It was held, on appeal, that "the agreement to pay to B. D. Hyam, or his assigns, a fee of \$20 for prosecuting the claim successfully was sufficient warrant for the recognition of the persons to whom Hyam transferred his business," and they having successfully prosecuted the claim, "are entitled, as the assigns of Hyam, to the fee (\$20) which the applicant agreed to pay."

Parker, James. Ctf. No. 3,621. (Mex. War.) Teller, H. M., Secretary. July 2, 1883. Vol. 10, p. 486.

28. A claim for pension on account of chronic diarrhea, with a fee contract for \$25, was filed in this office prior to the passage of the act of June 20, 1878, and subsequent to its passage the applicant filed a claim on account of sunstroke.

FEEES OF AGENTS AND ATTORNEYS—Continued.

The claim being complete on account of the first-named disability, was allowed, and the attorney awarded a fee of \$10, and the claim for sunstroke was held in abeyance under rule 82 of this office.

It was held, on appeal, however, that the fee-contract in this case was made for the prosecution of the claim for chronic diarrhea, and, being on file at date of the passage of the act referred to, the attorney was entitled to the stipulated fee of \$25 on the allowance of the same. It was also held that "the claim on account of sunstroke is (was) a separate and distinct claim from that made on account of diarrhea, and not an amendment thereof."

Osborn, Riley. Ctf. No. 236,426. Teller, H. M., Secretary. Dec. 10, 1883. Vol. 11, p. 96.

29. A claim for invalid pension on account of "rheumatism, disease of lungs, and hernia," was filed in this office prior to June 20, 1878, with articles of agreement in the sum of \$25. The claim on account of disability from rheumatism and disease of lungs was allowed after the soldier's death, and the claim on account of hernia was not allowed, nor was it rejected, and the pension agent was directed to pay the attorney his fee of \$10, then due, under the rules of this office, and the balance of the contract fee was withheld to be paid on the final settlement of the claim.

The attorney having claimed, on appeal, that this office should have ordered the whole of the fee of \$25 to be paid when the claim was partially adjudicated, the honorable Secretary, in affirming the action of this office in the premises, uses the following language, to wit:

"It has been the uniform practice of your office, which has been approved by this Department, in cases where there is a contract, \$10 of the fee will be paid upon the issue of the first certificate, and the rest of the fee will be withheld by the pension agent till ordered to pay on the final settlement of the claim.

* * * * *

"The action of your office in withholding the balance of the fee in this case was in conformity with the practice and rulings in cases similar in character to the one now under consideration, and it is approved by this Department."

Estee, Joseph H. Ctf. No. 242,759. Teller, H. M., Secretary. Jan. 5, 1884. Vol. 11, p. 118.

30. If an attorney deems the fee allowed by law in a pension case to be insufficient to justify his taking the risk of collecting his fee after he has consented to represent the claimant and has rendered some assistance in the prosecution of the claim, he need not, of course, consent to act as attorney in the case. But if he does consent, and as attorney for the claimant file the claim in your (the Pension) office, the Department will not permit any delay in the adjudication of the claim and the consequent obstruction to the business of your (the Pension) office growing out of an attempt by the attorney to secure the payment of

FEEES OF AGENTS AND ATTORNEYS—Continued.

any portion of his fee by refusing to communicate to the claimant the requirements of your (the Pension) office for evidence, or by failing to file such evidence when perfected.

Instructions (on letter of Milo B. Stevens & Co.). Teller, H. M., Secretary. Mar. 11, 1884. Vol. 11, p. 166.

31. In a claim for invalid pension filed and represented by attorney prior to June 20, 1878, the appellants, George Bancroft & Co., filed a power of attorney with power of substitution October 13, 1880, and substituted Freeman, Ward & Co., December 22, 1881, which firm resold their interest therein to the appellants. Neither of these firms called up the case until July 22, 1882, nearly two years after the appellants had filed their power of attorney.

After such neglect the claimant employed other attorneys who prosecuted the claim to a successful termination. And it appearing that the appellants had received from the claimant the sum of \$5 in part payment of their fee, they were required to refund the same to him. From this requirement an appeal was entered.

In deciding the appeal the following language was used, viz: "It appears that Bancroft & Co. neglected the claim for nearly two years and did not render any service to the claimant whatever, and therefore they are not entitled to any fee.

"After a careful review of the papers on file, the Department sees no good reason to interfere with your order requiring appellants to refund the five dollars received from the claimant.

"Your action is approved."

Stephens, William J. Ctf No. 220,388. Joalyn, M. L., Acting Secretary. Apr. 12, 1884. Vol. 11, p. 196.

32. When a pension certificate is issued on the allowance of a claim for pension filed prior to June 20, 1878—whether such claim is based on one or more disabilities—an order for the payment, in full, of the attorney's fee therein will be issued at the same time whether such fee be the legal one of \$10 or one fixed in articles of agreement, not exceeding \$25.

Barker, Daniel L. Ctf No. 252,463. Teller, H. M., Secretary. May 24 and June 4, 1884. Vol. 11, pp. 272 and 275.

33. Where an applicant for invalid pension dies during the pendency of his claim, and the same is prosecuted to a successful issue by his widow through his attorney of record, such attorney will be entitled to the same fee as he would have been had such applicant survived until the completion of the claim.

Kester, Stephen J. Ctf No. 256,646. Teller, H. M., Secretary. June 17, 1884. Vol. 11, p. 285.

34. FEES OF AGENTS AND ATTORNEYS, AGREEMENTS AS TO.

The action of this office in refusing to accept fee agreements which were executed before but not filed until after the claim was complete

FEES OF AGENTS AND ATTORNEYS—Continued.

and the pension certificate had issued thereon, was approved on appeal—it being held “that the law contemplates the filing of the agreements prior to the mailing of the pension certificates to the agent for paying pension.”

And it was further held that—

“The date of the execution of the fee agreements does not, as claimed by the appellants, control the question of their right to the fee therein agreed upon. By the terms of the agreement submitted the fee was to be paid ‘in accordance with the provisions of sections 4768 and 4769 of the Revised Statutes;’ and these sections, as before stated, require that the agreement, to be of any effect as a contract for the amount of fee named therein, must be filed with the Commissioner of Pensions, and must be filed at such time as will enable him to direct the payment of the fee in the manner prescribed by law. If they are not so filed the attorney has no right, by virtue of the contract, to the amount of fee agreed upon, and a demand for it would subject him to the penal provisions of the statute.” (See sec. 4, act of July 4, 1884.)

Whippo, John. Ctf. No. 272,606. Joslyn, M. L., Acting Secretary. Aug. 16, 1884. Vol. 11, p. 235.

35. FEES OF AGENTS AND ATTORNEYS IN CLAIMS FOR INCREASE.

(1) When a claim for increase of pension was pending at the date of the passage of the act of June 20, 1878, and a fee contract had been theretofore filed therein for the sum of \$25, it was held, on appeal, that the claim came within the class of “pending cases in which a fee contract has heretofore been filed,” mentioned in said act, and that, on the allowance of the claim for increase, the attorneys were entitled to the fee stipulated to be paid in the articles of agreement.

Walter, John A. Ctf. No. 123,877. Kirkwood, S. J., Secretary. Dec. 10, 1881. Vol. 9, p. 28.

(2) A claim for increase of pension on account of a new disability was filed in this office subsequent to the passage of the act of June 20, 1878, and the attorneys were paid five dollars in advance. When the claim was allowed the proper pension agent was erroneously directed to pay them a fee of ten dollars. On the facts becoming known, the attorneys were called upon to refund to the claimant the amount of five dollars paid them, as above set forth, in advance, and this action was approved on appeal.

Spaulding, J. Seely. Ctf. No. 91,125. Teller, H. M., Secretary. Jan. 19, 1883. Vol. 10, p. 46.

RULINGS OF THE COMMISSIONER OF PENSIONS.**RULING No. 77. September 24, 1883.**

In cases wherein the right of a widow to complete the invalid claim of her deceased husband under section 4718 has accrued and has been claimed subsequent to the 20th day of June, 1878, the rights of an agent constituted by the invalid must be held to have been revoked by

FEES OF AGENTS AND ATTORNEYS—Continued.

the death of his principal. A new agent, therefore, properly coming in to represent the rights of the widow in said incomplete invalid claim must be governed as to fee and payment thereof by the said act of June 20, 1878; and should she prosecute a claim as such widow under section 4702 of the Revised Statutes of the United States in addition, both must be treated as one case, in considering the status of the agent.

The agent therefore can legally receive but one fee of \$10 for all his service under such circumstances.

So much of Ruling 130, dated November 20, 1878, as relates to the above class of cases is hereby revoked and annulled.

This ruling is made in invalid certificate No. 33,977, and widows' claim No. 304,625, for services of Martin McGrath, Company F, Eighty-second Indiana Infantry.

RULING No. 79. June 21, 1884.

"Under instructions of the honorable Secretary of the Interior, Ruling No. 77 is hereby revoked."

RULING No. 124. July 21, 1885.

"Attorneys will not be allowed fees in cases where the rates of pension for the same degree of disability have been increased by act of Congress, by a decision of the honorable Secretary of the Interior, or by a ruling of this office."

RULING No. 130. August 11, 1885.

Where a claimant, and, subsequently, a pensioner made affidavit that he had forwarded to his attorney by mail the fee agreed upon between them, and where the said attorney denied the receipt of the same and submitted evidence to show that, after diligent search he had failed to obtain a trace of the claimant's letter: *Held*, that the act of the claimant and pensioner did not constitute a payment of the fee due the attorney, and that said fee should be deducted from the pension by the pension agent.

Case of Christopher Weaver. No. 163,763. Order book, p. 87.

RULING No. 139. November 11, 1885.

Where attorney's fee agreement was signed and duly acknowledged by the claimant, and also signed by the attorney whose signature lacked an acknowledgment: *Held*, that the fee "agreement is accepted and approved by the Commissioner, it appearing to him that the acceptance of the duty imposed by the power of attorney and the performance of it thereunder is a reasonable and sufficient compliance with the statute."

Davis, William H. App. No. 311,183.

FEES OF AGENTS AND ATTORNEYS—Continued.**ORDERS OF THE COMMISSIONER OF PENSIONS.****ORDER No. 78. April 22, 1882.**

By direction of the honorable Secretary, no substitution of an attorney by another will be recognized hereafter in claims filed prior to January 1, 1882, without the written consent of the applicant to the substitution of the particular person proposed to be substituted, and in cases in which there is a legal contract for a fee the substitution of an attorney by another shall not be held to carry with it the rights of the former attorney to the fee contracted for by him, unless the claimant shall consent thereto in writing. This order will not apply in cases where the substitution of an attorney has been recognized by this office prior to this date—April 22, 1882.

ORDER No. 79. April 26, 1882.

In any claim in which under the law a pension agent shall be directed to pay the fee for its prosecution, and it shall appear that the attorney has received any part of the fee in advance for his services in the claim, said attorney shall refund to the pensioner or other person from whom such advance fee was received the amount so paid, and file in this office the receipt for the same.

ORDER No. 86. July 31, 1882.

Claims admitted upon one disability, under Order 82, and continued as to another, should be returned to the adjudicating division for completion without losing their place in the pending files. The fee that may be due the attorney, payable by the office, should be withheld until the claim is adjudicated upon all the disabilities set forth in the declaration, and then the fee should be paid, whether the last adjudication is an admission or rejection. Claims for increase of pension, except for new disability, will not be considered within six months from the allowance of the claim or of a prior adjudication.

ORDER No. 89. December 8, 1882.

In compliance with instructions of the honorable Secretary, Order No. 86, in regard to payment by this office of fees in certain cases, is modified as follows:

(1) The fee due the attorney, where there is no contract, will be withheld by the pension agent until the claim is settled upon all the disabilities alleged, and then paid upon order of this office.

(2) In cases where there is a contract, ten dollars of the fee will be paid upon the issue of the first certificate, and the rest of the fee will be withheld by the pension agent till ordered to pay on the final settlement of the claim.

FEES OF AGENTS AND ATTORNEYS—Continued.**ORDER No. 96. October 3, 1883.**

In order that intelligent action may be taken in the final settlement of fees due attorneys, for the prosecution of claims before this office, and the order of the honorable Secretary of the Interior of May 31, 1876, relative to the employment of sub-agents or correspondents may be more strictly enforced, it is hereby ordered that, before final adjudication of any case, the claimant be called upon to state the name of the person or persons instrumental in the prosecution of the claim, the amount of fee paid, if any, and to whom such payment was made. (This order will not be applied to claims now complete.)

In all cases in which the attorney fee is payable by the pension agent, and it does appear that the whole or part of the same has been paid to the attorney, or his sub-agent or correspondent, the pension agent will be instructed to hold the fee until informed by this Office that refundment has been made and receipt therefor filed.

ORDER No. 99. June 11, 1884.

In compliance with instructions of the honorable Secretary, Orders No. 86 and No. 89, in regard to the payment of attorney fees, are hereby revoked. Hereafter the full fee payable by the office will be paid on the issuing of the first certificate.

ORDER No. 103. July 30, 1884.

The following instructions of the honorable Secretary, of the 17th instant, in regard to payment of fees and transfer of business by one attorney to another, are published for the information and guidance of the office.

W. W. DUDLEY,
Commissioner.

Hon. W. W. DUDLEY,
Commissioner of Pensions:

SIR: I have yours of the 14th instant concerning the collection of attorneys' fees in case of the assignment of business by one attorney to another. It was not my intention in allowing one attorney to transfer his business to another to allow additional fees to be collected for work completed and when the fee had been paid. In all cases where the work is but partially completed it will be impossible to determine what ought to be paid to the new attorney, and I must, therefore, leave the fee to be paid as the law directs. If an attorney who has partially completed the work of a pension case and received his pay therefor, in whole or in part, refuses to complete the work so begun, he cannot be compelled to do so, although for such misconduct he may be disbarred; but if he discontinues to practice, the Department is powerless to compel him to proceed or to punish him for neglecting to do so. If he assigns his business to another attorney, the claimant is not bound to recognize the assignee as

FEES OF AGENTS AND ATTORNEYS—Continued.

his attorney; he may employ other persons to present his claim, and the assignee so receiving the papers of claimant from the former attorney will be required by the Department to turn over to such claimant, on demand, any and all papers in his hands belonging to such claimant. But if the claimant chooses to recognize the assignee as his attorney, then he is bound to pay to such attorney the legal fee for his services, unless an agreement shall be made between the claimant and the assignee for a fee less than that established by law. When the claimant has paid a portion only of the fee allowed by law, and only a portion of the work necessary to secure the pension has been performed by the attorney, it would seem to be but just that the assignee should be paid only for the work done by him; but it is impossible to determine the amount that ought to be paid for the services rendered by such assignee, and, therefore, I see no way but to allow the assignee to receive pay in all cases where he is required to do substantial service to his client. He should not be allowed to render service simply as a means of making a charge in cases completed by the assignor. Whenever the claimant has paid nothing, as I have before said, he should be required to pay the assignee whether he has rendered service or not, because the former attorney or assignor has made the last attorney or assignee his agent to collect such fee. The assignment of claims held by one attorney and in an incompleated state should not be allowed, except in such cases as appear to the Department to be necessary to the proper conduct of such cases in the interest of the claimant.

Very respectfully,

H. M. TELLER,
Secretary.

ORDER No. 105. October 7, 1884.

All "articles of agreement" relating to fees in claims for pension or bounty-land which conform to the requirements of the act of July 4, 1884, shall be stamped and filed in the case to which they belong, and in the absence of any indication that fraud or deception was used in the procurement of the same shall be accepted as sufficient, provided said contracts are filed prior to the date of the issue of the certificate.

ORDER No. 124. December 3, 1885.

Whereas, under the several statutes governing the fees of attorneys in pension claims and the payment of same by pension agents of amounts certified by the Commissioner of Pensions or called for by fee agreements, it has been the practice of pension agents to deduct any sum alleged by claimants to have been paid by them to their attorneys; and

FEEs OF AGENTS AND ATTORNEYS—Continued.

Whereas, such deductions have been made upon the naked statement of claimants as to amount only, without reference to the time or manner of payment or the exhibit by them of evidence of such payment; and

Whereas, these statements made by claimants as to prior payments are often met by denial on the part of the attorneys, and from the loose and irregular practice in these cases great delay is involved in the equitable adjustment of the questions thus opened between claimants and attorneys and

Whereas, further, this Office has under the present practice no method for the preparation of data upon which to base intelligent action in such premises, and appeals are taken as a matter of course, by which obstructions arise to the public business :

Now then, to remedy these evils, and that justice may be done in the premises, as well to faithful attorneys as to claimants for pension, as well also to relieve this Office from the burden of unnecessary correspondence and the appeal docket of a great number of cases,

It is ordered, that from and after the 1st day of January, A. D. 1886, all pension agents where claimants allege payment by them of any sum or sums to their attorney of record shall request said claimants to make affidavit to the amount of payment, the date of payment, under what certificate made, and as far as may be in their recollection how such payment was made; and that the said affidavit shall be in manner and form substantially as the blank form hereto annexed, marked exhibit "A," and made a part of this order as though fully incorporated herein; and

It is further ordered, that each and every of such affidavits shall be executed in duplicate, one to be retained by the pension agent as his voucher and authority in the premises for deducting the amount sworn to have been paid, and the duplicate thereof to be promptly forwarded to this Office for filing with the record in the claim wherein such affidavit purports to be made; and

It is further ordered, that where claimants cannot make such affidavits as herein prescribed and set forth, with reasonable certainty, the pension agent shall pay the fee certified by this Office or called for by the fee agreements without deduction: *Provided*, that if, in the opinion of the pension agent, reasonable doubt exists as to the fact of said payment and yet the said claimant be unable to make such affidavit as herein prescribed, said agent shall certify said case to the Commissioner of Pensions for his consideration and decision. (See Sec. 4784 R. S.)

FEEs OF AGENTS AND ATTORNEYS—Continued.**EXHIBIT A, REFERRED TO IN ORDER NO. 124.**

[To be executed in duplicate and one copy forwarded to the Commissioner of Pensions for filing with the record.]

STATE OF _____,

County of _____ ss :

On this _____ day of _____, 188—, personally appeared before me _____, who, being by me duly sworn, deposes and says that he is a pensioner by certificate No. _____, and that _____, 188—, he has paid his attorney, _____, of _____ [Name of Attorney.] [Address.] _____, the following sums at the dates mentioned, for his services in said claim, viz : of Attorney.]

Amounts paid.	Dates when paid.	Manner of payment
\$.....	....., 188 .	.....
\$.....	....., 188 .	.....
\$.....	....., 188 .	.....
\$.....	....., 188 .	.....
\$.....	....., 188 .	.....

The claimant may add such other facts relative to manner of payment, whether by cash, post-office order, registered letter, or otherwise, as may be within his recollection at the time of making this affidavit.

.....

 [Signature of Pensioner.]

Attest :

Sworn to and subscribed before me the day and year above written.

[L. S.]

 [Official Signature.]

FORAGING.

See LINE OF DUTY, *par.* 13.

FORGERY.**Section 5421, Revised Statutes.**

Every person who falsely makes, alters, forges, or counterfeits; or causes or procures to be falsely made, altered, forged, or counterfeited; or willingly aids or assists in the false making, altering, forging, or counterfeiting, any deed, power of attorney, order, certificate, receipt, or other writing, for the purpose of obtaining or receiving, or enabling any other person, either directly or indirectly, to obtain or receive from the United States, or any of their officers or agents, any sum of money; or

FORGERY—Continued.

who utters or publishes as true any such false, forged, altered, or counterfeited deed, power of attorney, order, certificate, receipt, or other writing, with intent to defraud the United States, knowing the same to be false, altered, forged, or counterfeited; or who transmits to, or presents at, or causes or procures to be transmitted to, or presented at, any office or officer of the Government of the United States, any deed, power of attorney, order, certificate, receipt, or other writing, in support of, or in relation to, any account or claim, with intent to defraud the United States, knowing the same to be false, altered, forged, or counterfeited, shall be imprisoned at hard labor for a period of not less than one year nor more than ten years; or shall be imprisoned not more than five years, and fined not more than one thousand dollars.

FORMAL DECLARATIONS.

See DECLARATIONS, FORMAL AND INFORMAL.

FRAUDULENT CLAIMS, PENALTY FOR PRESENTATION OF.

Section 5438, Revised Statutes.

Every person who makes or causes to be made, or presents or causes to be presented, for payment or approval, to or by any person or officer in the civil, military, or naval service of the United States, any claim upon or against the Government of the United States, or any department or officer thereof, knowing such claim to be false, fictitious, or fraudulent, or who, for the purpose of obtaining or aiding to obtain the payment or approval of such claim, makes, uses, or causes to be made or used, any false bill, receipt, voucher, roll, account, claim, certificate, affidavit, or deposition, knowing the same to contain any fraudulent or fictitious statement or entry, or who enters into any agreement, combination, or conspiracy to defraud the Government of the United States, or any department or officer thereof, by obtaining or aiding to obtain the payment or allowance of any false or fraudulent claim, or who, having charge, possession, custody, or control of any money or other public property used or to be used in the military or naval service, who, with intent to defraud the United States or willfully to conceal such money or other property, delivers or causes to be delivered, to any other person having authority to receive the same, any amount of such money or other property less than that for which he received a certificate or took a receipt, and every person authorized to make or deliver any certificate, voucher, receipt, or other paper certifying the receipt of arms, ammunition, provisions, clothing, or other property so used or to be used, who makes or delivers the same to any other person without a full

FRAUDULENT CLAIMS, PENALTY FOR PRESENTATION OF—Cont'd.

knowledge of the truth of the facts stated therein, and with intent to defraud the United States, and every person who knowingly purchases or receives in pledge for any obligation or indebtedness from any soldier, officer, sailor, or other person called into or employed in the military or naval service any arms, equipments, ammunition, clothes, military stores, or other public property, such soldier, sailor, officer, or other person not having the lawful right to pledge or sell the same, every person so offending in any of the matters set forth in this section shall be imprisoned at hard labor for not less than one nor more than five years, or fined not less than one thousand nor more than five thousand dollars.

Soca. 1, 3, 2 March, 1863. [See §§ 3490, 3491.]

See also sections 5451 and 5501 of the Revised Statutes, edition of 1878, pp. 1056 and 1066, for penalty for bribery, &c.

FREEDMEN'S HOSPITAL.

DEPARTMENT OF THE INTERIOR,

Washington, January 30, 1878.

The COMMISSIONER OF PENSIONS:

SIR: I acknowledge the receipt of your letter of the 29th instant, and the letter of the Medical Referee of the 23d instant, setting forth the necessity which exists for making some arrangement for the temporary care and support of destitute applicants for pension who come to this city for various reasons connected with their claims for pension, and in reply would state that I approve the suggestion that such persons be admitted to the Freedmen's Hospital and Asylum for the time during which it is necessary that they should remain in this city. You will please, therefore, send to this Department, with a short note stating the facts of the case, any applicant for pension who, in the view of your Office, may properly be admitted to that institution, that authority for his admission may be given.

Very respectfully,

C. SCHURZ,

Secretary.

FURLOUGH.

See LINE OF DUTY, *par.* 14.

G.

GENERAL SERVICE.

Section 4724, Revised Statutes, and act approved March 1, 1879.

No person in the Army, Navy, or Marine Corps shall draw both a pension as an invalid and the pay of his rank or station in the service, unless the disability for which the pension was granted be such as to occasion his employment in a lower grade, or in the civil branch of the service.

Act 30 April, 1844. As to persons in the civil service of the United States, see sec. 1, 3 Mar., 1865, sec. 5, 6 June, 1866.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all persons who, under and by virtue of the first section of the act entitled "An act supplementary to the several acts relating to pensions," approved March third, eighteen hundred and sixty-five, were deprived of their pensions during any portion of the time from the third of March, eighteen hundred and sixty-five, to the sixth of June, eighteen hundred and sixty-six, by reason of their being in the civil service of the United States, shall be paid their said pensions, withheld by virtue of said section of the act aforesaid, for and during the said period of time from the third of March, eighteen hundred and sixty-five, to the sixth of June, eighteen hundred and sixty-six.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. Soldier contracted disability in prior service, re-enlisted, assigned to duty as clerk of adjutant of regiment: *Held*, that he is not entitled to pension unless his disability caused his employment as clerk.

Reid, William P. O. W. Inv. File, No. 25,384. Usher, J. P., Secretary. Jan. 12, 1864. Vol. 2, p. 172.

2. All pensioners who contracted disability in the line of duty in active service and subsequently enlisted in the general service for clerical duty in the War Department are entitled to draw their pensions during the period of such last-named service.

Mulhall, William. Ctf. No. 80,707. Delano, C., Secretary. Jan. 19, 1872. Vol. 1, p. 144.

O'Leary, Bartholomew. Ctf. No. 196,768. Teller, H. M., Secretary. May 18, 1882. Vol. 9, p. 209.

Stewart, John C. Ctf. No. 199,016. Teller, H. M., Secretary. May 18, 1883. O. W. and N., Vol. 3, p. 86.

3. Pension should not be granted to any one nor name continued on pension roll of any person in general service, unless there be clear and satisfactory proof that such person is disabled and that his disability is such as to occasion his employment in a lower grade or in some civil branch of the service. (See act of April 30, 1844.)

Instructions: Delano, C., Secretary. Mar. 21, 1872. Vol. 1, p. 175.

[NOTE.—See also case of Mulhall, William, above.]

GENERAL SERVICE—Continued.

4. The widow of a hospital steward is entitled to pension if cause of death was contracted while employed in the "civil branch of the service" at a military post.

Plumer, Josephine. App. No. 190,678. Delano, C., Secretary. Mar. 23, 1872. Vol. 1, p. 178.

5. Widows of general service men employed in the War Department are entitled to pension if soldier died of disease contracted while in said service.

Whiting, Joannah E., widow of Harlow H. Ctf. No. 166,898. Delano, C., Secretary. Dec. 10, 1874. Vol. 3, p. 414.

6. A temporary detail to perform clerical duty is not such as to require transfer to the general service. A hospital steward is regarded as belonging to the military branch of the Government, and pension should be withheld during the period of such service.

Hilton, Samuel. Ctf. No. 123,754. Schurz, C., Secretary. Jan. 8, 1880. Vol. 7, p. 155.

7. Thomas Frisby was enlisted March 21, 1868, as a hospital steward for clerical duty in the Surgeon-General's Office, and remained on such duty to July 1, 1874, when he was discharged. He died January 19, 1879, of lung disease, contracted about January 20, 1870, while in such service. His widow's claim for pension was rejected upon the ground that he was not in the military service of the United States at the time he contracted the fatal disease. The honorable Secretary, in affirming the rejection, held that Mr. Frisby "held no connection as a soldier with the post of Washington, and in the view of the Department the case cannot be regarded as coming within the provisions of section 4694 of the Revised Statutes."

Frisby, Mary M. No. 243,138. Kirkwood, S. J., Secretary. Jan. 16, 1882. Vol. 9, p. 87.

8. No title to pension is acquired by a person who contracted his disability while serving in the Adjutant-General's Office as an enlisted man in the "general service." Such service does not come within the provisions of section 2, act of July 27, 1868, now section 4694, Revised Statutes, which requires that the disability must be contracted while serving in the field or on the march, or at a post, fort, or garrison, or en route to a post, fort, or garrison.

McMonigle, Samuel. No. 471,695. Teller, H. M., Secretary. Apr. 15, 1884. Vol. 11, p. 192.

RULING OF THE COMMISSIONER OF PENSIONS.

RULING No. 52. January 19, 1872.

Where a soldier's disability is such as to have occasioned his employment in a civil branch of the service he is entitled to pension, though still an enlisted man.

GUARDIANS.**Section 4783, Revised Statutes.**

Every guardian having the charge and custody of the pension of his ward who embezzles the same in violation of his trust, or fraudulently converts the same to his own use, shall be punished by fine not exceeding two thousand dollars or imprisonment at hard labor for a term not exceeding five years, or both.

Sec. 31, 3 Mar., 1873. See sec. 5486, R. S.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. Guardians not entitled to expenses of last sickness, &c., of their wards unless said wards were pensioners or had applications for pension pending at the dates of their deaths.

Howard, John A., minors of. App. No. 204,010. Delano, C., Secretary. Oct. 9, 1873. Vol. 3, p. 37.

2. When eleemosynary institutions are authorized by the laws of the State in which they are located to accept "the office or appointment" of guardian, such appointments, when made, will be recognized in the administration of the pension laws.

Schreiner, Richard C., minor child of. No. 307,691. Teller, H. M., Secretary. Mar. 10, 1884. Vol. 11, p. 168.

RULINGS OF THE COMMISSIONER OF PENSIONS.**RULING No. 21. (No date.)**

Death of the original guardian does not make the issue of a new certificate necessary. Payments will be made to the person holding, at the time of payment, the relation of duly appointed guardian, to be determined by the pension agent.

RULING No. 22. October 12, 1877.

Eleemosynary institutions and other corporations will not be recognized, under the pension laws, as proper persons to be guardians of minors and others under legal disability. Natural persons only will be recognized as guardians of such persons.

RULING No. 123. July 21, 1885.

Where guardian of the minor child of a soldier lived in Monroe County, Kentucky, and his ward lived in Tarrant County, Texas: *Held*, that the certificate should be issued in the usual manner, payment being directed to be made to the guardian, but that the pension agent be instructed to withhold payment for a period of sixty days, to enable the minor, to whom notice should be given, to secure the appointment of a new guardian in Texas, if desired.

Lewis, William, minor of. No. 226,788.

RULING No. 158. December 18, 1885.

1. Where guardianship of the person is claimed it must appear of record that the person of the ward was, at the time of the granting of

GUARDIANS—Continued.

the letters, within the jurisdiction of the court out of which they issued.

2. Where a guardian claims authority over both person and estate it must appear that, at the time of the granting of the letters of guardianship, not only the person but the estate of the ward was within the jurisdiction of the court out of which said letters issued.

Guardian of Henry D. Gilmore. Ctf. No. 83,040.

RULING No. 161. December 23, 1885.

Michael O'Connell, a Massachusetts soldier, after his discharge returned to his home in the city of Boston, that State, where he continuously resided until the latter part of 1873, when he went to Indianapolis, Indiana, to visit a daughter living in that place. He died in the city hospital of Indianapolis in February, 1874.

In 1880, his said daughter, on application to the circuit court of Marion County, Indiana, was appointed guardian of Daniel O'Connell, a minor child of the soldier, which minor was then, had always been, and is now living in Massachusetts.

In January, 1881, said daughter filed an application for pension as guardian of said minor child.

In October, 1883, the probate court of Worcester County, Massachusetts, appointed one Robert Lowder guardian of the child Daniel O'Connell, and, in May, 1884, said Lowder filed an application for pension as guardian of said minor.

The minor's claim was admitted, and pension certificate No. 212,465 was issued March 10, 1885.

The Indiana guardian, to whom payment was directed to be made, upon presenting herself to receive the pension money, was unable to give the required bond, and thereupon resigned her guardianship. The court appointed in her place one James Renihan, of Indianapolis, Indiana, who gave the requisite bond and received the pension money.

Upon the application of the Massachusetts guardian for payment to him of the pension money which he claimed had been erroneously paid to the Indiana guardian, the Commissioner *Held*, that all pension money due and to become due under said certificate No. 212,465 be paid to the Massachusetts guardian; that the pension agent at Indianapolis be instructed to demand from the Indiana guardian, and to receive and receipt for the money paid to him under said certificate, and that in the event of the refusal of said guardian to comply with said demand, said pension agent shall thereupon call upon the United States attorney for the proper district in the State of Indiana to take such action as is warranted by law to enforce payment to the United States of the money received by him under said certificate as guardian of said minor Daniel O'Connell.

O'Connell, Michael, minor of. Ctf. No. 212,465.

GUNBOAT, RAM FLEET, AND MISSISSIPPI MARINE BRIGADE.**Par. 2, Section 4693, Revised Statutes.**

* * * * *

Second. Any master serving on a gunboat, or any pilot, engineer, sailor, or other person not regularly mustered, serving upon any gunboat or war vessel of the United States, disabled by any wound or injury received, or otherwise incapacitated, while in the line of duty, for procuring his subsistence by manual labor.

* * * * *

Resolution 16 July, 1862.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. The provision of section 10 of act of July 14, 1862, requiring continuance of service to close of the war, applies only to bounty and not to pension.

The steamer "Champion" was a gunboat or war vessel in the service of the United States from March, 1863, to the close of the war, and service thereon during that period comes within the provisions of section 10, act of July 14, 1862, now paragraph 2 of section 4693, Revised Statutes.

Goodall, Robert. Navy File No. 5,091. Delano, C., Secretary. Mar. 3, 1872. Vol. 1, p. 168.

2. The ram "Lioness" was a war vessel and the service thereon as steersman, which was paid for by the Quartermaster's Department, is such service as gives title to pension under second paragraph of section 4693, Revised Statutes.

Hogan, Hall W. No. 800,832. Joslyn, M. L., Acting Secretary. Oct. 31, 1882. Vol. 9, p. 434.

3. It has been uniformly held by this Department that the expression "gunboats and war vessels" was intended to include such vessels only as were armed for battle, and not such as were employed by the Army for transporting supplies. The schooner "Martha Nichols," engaged in carrying supplies off Cape Hatteras, was not a war vessel.

Bentley, Benjamin A. No. 489,829. Joslyn, M. L., Acting Secretary. Apr. 7, 1884. Vol. 11, p. 189.

4. By gunboat or war vessel is meant an armed vessel designed for battle. The "Dime" was a steam-tug or dispatch-boat, in the employ of the Quartermaster's Department, and was not a war vessel.

Burt, Cynthia, mother of Burt, Samuel G. No. 192,481. Teller, H. M., Secretary. Apr. 19, 1884. O. W. and N. Vol. 3, p. 341.

5. Captains, pilots, and engineers, not regularly mustered into the military or naval service of the United States, and serving on a vessel used merely as a transport, are not entitled under paragraph 2 of section 4693, Revised Statutes.

The "Diana," as a vessel of the Mississippi Marine Brigade, was not a war vessel, but a transport merely.

Coney, John G. App. No. 137,908. Cowen, B. R., Acting Secretary. May, 20, 1874. Vol. 3, p. 218.

See RULING No. 31.

GUNBOAT, RAM FLEET, AND MISSISSIPPI MARINE BRIGADE—Cont'd.**RULING OF THE COMMISSIONER OF PENSIONS.****RULING No. 31. March 15, 1877.**

The words "any gunboat or war vessel of the United States," used in the second subdivision of section 4693, Revised Statutes, and the words "gunboats and war vessels," found in the last clause of section 4695, Revised Statutes, are to be construed so as to include all vessels in the service of the United States which are manned and used in offensive and defensive operations against the enemy.

H.**HALF-PAY PENSIONERS.**

See OLD WARS, par. 10.

HELPLESSNESS.**DECISION OF THE SECRETARY OF THE INTERIOR.**

The word "helplessness," used in the act of June 18, 1876, does not imply utter physical prostration, but should be understood as referring not only to the physical helplessness which compels him to depend at times upon the personal aid and assistance of another person, but also to his helplessness, *i. e.*, inability to gain a subsistence by his own exertions.

Schmidt, Henry. Ctf. No. 35, 234. Chandler, Z., Secretary. Feb. 11, 1876. Vol. 4, p. 197.

HERNIA.**DECISION OF THE SECRETARY OF THE INTERIOR.**

A claim for invalid pension on account of disability from hernia should not be rejected "because there is no record of the disabilities alleged and the claimant cannot furnish evidence of medical treatment for rupture in the service or at the time of discharge. No good reason is perceived why medical testimony should be insisted upon. The testimony of any credible persons who have personal knowledge of material facts should be competent to prove those facts."

McCormick, Patrick J. No. 360,020. Teller, H. M., Secretary. Apr. 28, 1884. Vol. 11, p. 215.

HERNIA, RATES FOR—

See RATES OF PENSIONS, par. 18.

HOSPITAL MATRONS.

See CIVILIANS IN SERVICE OF A QUASI-MILITARY CHARACTER, par. 6.

HOSPITAL STEWARDS

See GENERAL SERVICE, pars. 4, 6, 7.

I.

IDENTITY.

See SERVICE PENSIONS, WAR OF 1812, par. 12.

INCREASE (INVALID).

Section 4698½, Revised Statutes.

Except in cases of permanent specific disabilities, no increase of pension shall be allowed to commence prior to the date of the examining surgeon's certificate establishing the same, made under the pending claim for increase, and in this, as well as all other cases, the certificate of an examining surgeon, or of a board of examining surgeons, shall be subject to the approval of the Commissioner of Pensions.

Sec. 4, 3 Mar., 1873; see sec. 4, 10 Apr., 1866.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. No title to, conferred by *prospective* increase of disability.

Hanton, Richard B. Ctf. No. 67,469. Browning, O. H., Secretary. Dec. 15, 1866. Vol. 2, p. 5.

2. Commences at date of examining surgeon's certificate in pending claims except for permanent and specific disability.

Martin, J. H. M. Ctf. No. 7,404. Cox, J. D., Secretary. May 6, 1869. Vol. 2, p. 106.

Kelly, Michael. Ctf. No. 45,833. Delano, C., Secretary. Nov. 18, 1874. Vol. 3, p. 353.

3. After claim for increase of invalid pension has been allowed no evidence admissible as to the existence of disability prior to date already fixed for commencement of such increase.

Chamberlain, I. F. Ctf. No. 88,299. Cox, J. D., Secretary. Sept. 15, 1870. Vol. 2, p. 203.

4. Where increase of pension is based on obesity resulting from loss of leg: *Held*, that such connection cannot be established by conclusive proof, and it is not sufficiently probable to warrant allowance of increase of pension.

Clayton, George. Ctf. No. 46,471. Schurz, C., Secretary. June 21, 1878. Vol. 5, p. 495.

5. Where party is receiving third-grade pension for wound of shoulder, not having lost arm above the elbow, the question is one of fact whether he is so disabled as to be incapacitated for performing any manual labor, the proof showing to the contrary. *Rejection affirmed.*

Barnell, William. Ctf. No. 53,669. Schurz, C., Secretary. Jan. 10, 1880. Vol. 7, p. 159.

6. Where evidence is elicited by special investigation that the disability for which pensioned existed prior to enlistment, claim for increase should be rejected and name of pensioner dropped from the rolls.

Claver, David. Ctf. No. 154,807. Schurz, C., Secretary. Mar. 3, 1880. Vol. 7, p. 243.

INCREASE (INVALID)—Continued.

7. Where party is receiving third-grade pension no increase can be allowed by compounding lesser disabilities unless those disabilities, in connection with that for which pensioned, are such as to preclude him from performing manual labor.

Freed, John M. Ctf. No. 61,907. Schurz, C., Secretary. Apr. 20, 1880. Vol. 7, p. 306.

8. Where pension has been allowed for a disability, and years after its allowance claim is made for increase on account of the development of disabilities resulting as a sequence to that for which pensioned: *Held*, that the commencement of increase must be governed by section 4698½.

Livingston, Henry D. Schurz, C., Secretary. July 8, 1880. Vol. 7, p. 426.

9. Where, in a claim for increase of pension, it appears upon satisfactory evidence that the pensioner is receiving a higher rate of pension than that to which he is entitled, the claim for increase should be rejected, and the pension reduced to the rate to which he is actually entitled.

See REDUCTION.

10. Where a pensioner in receipt of a pension of \$24 per month for loss of leg above the knee applied for increase on account of other and non-specific disabilities, it was held that he was not entitled to such increase unless the aggregate of his pensionable disabilities was of such a character "as to necessitate the personal aid and attention of another person."

Specht, John. Ctf. No. 56,140. Kirkwood, S. J., Secretary. Sept. 29, 1881. Vol. 8, p. 426.

11. When a pensioner is receiving \$24 per month on account of a gunshot wound of his shoulder, "to entitle him to the next higher grade of pension it is necessary that his disability should exist in a degree to render him utterly helpless or so nearly so as to require the regular personal aid and attendance of another person."

Jenkins, William. Ctf. No. 19,701. Kirkwood, S. J., Secretary. Mar. 8, 1882. Vol. 9, p. 123.

12. The claim for pension of a person, who, in the line of duty, has lost one leg, and has been totally and permanently disabled in the other, comes within the provisions of section 4698 of the Revised Statutes entitling him to a pension of \$72 per month.

McFarland, George F. Ctf. No. 37,236. Teller, H. M., Secretary. May 26, 1882. Vol. 9, p. 223.

13. The claimant for increase is pensioned, for disability from the loss of the right arm above the elbow and a wound of the left arm, at the rate of \$24 per month, the rate established by law for incapacity for performing any manual labor. The next higher rate (now \$72 per month) is provided for such pensioners as are so permanently and totally disabled as to render them utterly helpless, or so nearly so as to require the regular personal aid and attendance of another person.

The disability is permanent, but it does not appear that the pensioner

INCREASE (INVALID)—Continued.

is helpless to the extent required by law to entitle him to the higher rate of pension.

Rejection of claim for increase affirmed.

Brown, I. D. R. Ctf. No. 24,847. Teller, H. M., Secretary. June 17, 1882. Vol. 9, p. 276.

14. A soldier was pensioned for disability from gunshot wound of his head and died from its effects. Prior to his death he had filed a claim for increase, which was pending when he died.

Not having received a medical examination under the claim for increase, after it was filed in this office, and his disability not being a "permanent specific" one, allowance of the claim was refused on the ground that there had been no medical examination, and there was consequently no certificate of examination at the date of which the increase, if allowed, could be made to commence, as provided by section 4698½, Revised Statutes.

In the decision affirming this action the following language is used, to wit: "It is the evident intent of said section (4698½) that in claims of increase of pension on account of disabilities not permanent and specific, the degree of disability in the absence of the certificate of an examining surgeon or board of examining surgeons, shall not be determined upon other evidence.

"To allow a certificate showing the pensioner's condition after his claim was filed to be made at this time and dated back, as proposed by the attorney in the case, would be an evasion of the law, which contemplates that the certificate should be made at the date at which the examination was made.

"Your decision declining to receive any evidence bearing upon the claim for increase is affirmed."

Hallish, John N. Ctf. No. 60,716. Joelyn, M. L., Acting Secretary. June 25, 1883. Vol. 10, p. 473.

15. The soldier was pensioned at \$24 per month for the "amputation of the right forearm at its lower third and amputation of the left thumb through the metacarpal bone." His claim for increase to \$50 per month was rejected, and on appeal Mr. Secretary Schurz decided June 16, 1880 (see vol. 7, p. 291), that "the rate of \$50 per month is provided only for those who are so permanently and totally disabled as to be helpless and to require the regular personal aid and attendance of another person. From the fact that the loss of both hands is mentioned in the law as one of the disabilities for which this rate of pension may be allowed, it must be presumed that it was not the intention of those who made the law that a pension of \$50 per month should be allowed in a case of injury to the hands which is not equivalent or very nearly equivalent to the loss of both.

"The injuries which the pensioner received have produced a high degree of disability, but it is believed that they have not produced that

INCREASE (INVALID)—Continued.

degree of total helplessness for which the pension of \$50 per month is provided."

His pension was increased to \$36 per month by a special act, and having renewed his claim for increase to \$50 per month it was decided on appeal, that "the status of this case has not been changed since it was before the Department (June 16, 1880), and the pension committees of Congress. The origin of the pensioner's disability was fully set forth in the papers upon which the rate of pension was originally determined.

"Congress by special act having fixed the pension of Mr. Hill, this Department is not disposed to take further action in the matter." The action of the Pension Office is affirmed.

Hill, William H. Ctf. No. 35,283. Teller, H. M., Secretary. Feb. 6, 1884. Vol. 11, p. 132.

16. Claimant is a pensioner at \$6 per month on account of disability from chronic diarrhoea contracted in the Mexican war. He filed a claim for increase March 15, 1882, and it was rejected May 24, 1882, on the ground that there had been no increase of disability.

In disposing of the question on appeal the decision closes as follows, to wit:

"The attorney states in his appeal to this Department that the applicant claims an increase of pension on account of disease of the digestive organs and heart, and a debilitated condition of the system, all resulting from chronic diarrhoea.

"It appears that claimant, in his application for increase of pension before referred to, did not claim an increase of pension on account of increased disability from disease of digestive organs and heart and a debilitated condition of the system, as set forth in his letter of appeal to this Department; and it is proposed by your office that whenever he shall apply for an increase of pension on account of an increase of disability from chronic diarrhoea or any result of said disease, or on account of any new disability, to act upon the same without delay.

"After a careful consideration of the papers in the case, the Department sees no good reason to interfere with your action in this claim."

Parmenter, Alpheus B. Ctf. No. 9,488. (Mex. war.) Teller, H. M., Secretary. Apr. 30, 1884. Vol. 11, p. 220.

Act of June 6, 1866.

17. Disability must be permanent and specific to entitle to increase under act of June 6, 1866.

Wetmore, Thaddens. App. No. 32,070. Browning, O. H., Secretary. Nov. 7, 1866. Vol. 3, p. 2.

Act of June 8, 1872, (Section 4698, Revised Statutes.)**ORDER OF THE COMMISSIONER OF PENSIONS.****ORDER No. 24. December 9, 1872.**

18. In the adjudication of claims for increase of pension under the act of June 8, 1872, all other than those in which pension has been

INCREASE (INVALID)—Continued.

allowed for amputation or resection must, before final action, be submitted to the medical division. *Obsolete.*

Act of March 3, 1873.

19. The claim for pension of a person, who, in the line of duty, has lost one leg and has been totally and permanently disabled in the other, comes within the provisions of section 4698 of the Revised Statutes entitling him to a pension of \$72 per month.

McFarland, George F. Ctf. No. 37,236. Teller, H. M., Secretary. May 26, 1882. Vol. 9, p. 228.

Act of June 18, 1874.

20. (1) "Total," to perform any kind of remunerative labor, and physical helplessness, entitles to benefits of act of June 18, 1874.

Stanley, Cyrus W. Ctf. No. 39,021. Chandler, Z., Secretary. Feb. 23, 1876. Vol. 4, p. 206.

(2) The applicant "has no use of his left arm. He has partial ankylosis of the right elbow, allowing motion from a point near a right angle outwards about forty-five degrees. He has therefore considerable use of the right arm, so much in fact that he is able to perform the duties of a second-class clerk in the office of the Second Auditor of the Treasury.

"In view of the Department the case is not one of such total helplessness as to require the regular aid and attendance of a second person within the meaning of the law." (Act of June 18, 1874.)

Collett, John R. Ctf. No. 27,886. Teller, H. M., Secretary. Apr. 29, 1882. Vol. 9, p. 176.

(3) By a gunshot wound the claimant's left "hand and arm are totally disabled, and of no more use to him than if amputated. His right arm is disabled by the fragments of a shell, wounding and fracturing the internal condyle of the right humerus, resulting in partial ankylosis of the elbow. The arm can be flexed to about a right angle and extended to about forty-five degrees, or in a radius of about six inches. He cannot get his hand to his mouth, and cannot bathe his face or cut his food, dress or undress himself. For all these offices he requires the regular aid and attendance of another person. * * * He has fair use of his right hand, can write, and is employed as second grade clerk in the Second Auditor's Office, but requires the assistance of another person in handling books, &c."

For these disabilities it was held, on appeal, that the applicant was entitled to a pension at the rate of \$50 per month under the provisions of the act of June 18, 1874. (Overruling decision in same case dated April 29, 1882.)

Collett, John R. Ctf. No. 27,886. Joslyn, M. L., Acting Secretary. June 26, 1883. Vol. 10, p. 477.

Act of February 28, 1877.

21. "The act of February 28, 1877, must be construed in connection with its title. The title is 'An act to allow a pension of thirty-six dol-

INCREASE (INVALID)—Continued.

lars per month to soldiers who have lost an arm and a leg.' The rate of pension to be allowed under this act is specifically fixed, so that it cannot be changed except by direct authority given by a subsequent act. The act of March 3, 1883, does not give that authority.

"The expression contained in the act of February 28, 1877, 'at such rate as is provided for by the provisions of the existing laws,' must be understood as referring to the provisions of the laws in force at the date of the passage of that act.

"In the view of this Department there is no authority of law for granting a higher rate of pension for the loss of a hand and foot than \$36 per month."

Instructions: Teller, H. M., Secretary. Apr. 2, 1884. Vol. 11, p. 180.

RULING OF THE COMMISSIONER OF PENSIONS.**RULING No. 15. July 27, 1877.**

Increased pension, under act of February 28, 1877, will be allowed from the passage of said act in all cases where the loss of a hand and a foot was incurred prior to that date, or where the claimant, at the passage of said act, was a pensioner on account of total and permanent disability in one hand and one foot.

In new applications for the latter disability, pension will commence at the date of the surgeon's certificate establishing the same.

Sec. 4607, R. S.

Act of June 17, 1878.

22. Increase from \$50 to \$72 per month on account of disease of brain is inadmissible on the ground that the act of June 17, 1878, includes only those who have lost both hands or both feet or the sight of both eyes.

Sharp, Wm. C. Ctf. No. 147, 157. Schurz, C., Secretary. Oct. 17, 1879. Vol. 7, p. 28.

Act of June 16, 1880.

23. (1) Persons, on June 16, 1880, pensioned at a lower rate than \$50 per month, whose disabilities have, since that date, increased to such a degree as to entitle them to the benefits of the act of June 18, 1874, and persons whose disabilities may hereafter increase to such an extent as to entitle them to the benefits of the last-named act, are not entitled to the benefits of the act of June 16, 1880.

Opinions of Attorney-General. Vol. 8, p. 92.

(2) A pensioner having a claim for increase on file at the date of the passage of the act of June 16, 1880, which was not *finally* adjudicated until after that date, and then allowed at the rate of \$50 per month, to commence prior thereto, is entitled to \$72 per month under the provisions of that act.

Whitehead, Jiles J. Ctf. No. 74, 699. Kirkwood, S. J., Secretary. July 12, 1881. Vol. 8, p. 242.

INCREASE (INVALID)—Continued.

(3) "The intent and spirit of the act of June 16, 1880, is that all those soldiers and sailors whose *present right* it was at the time of its passage, to demand and receive a pension of \$50 a month under the law of 1874 (June 18), should have the same increased to \$72."

Burnett, Ward H. Ctf. No. 3,851. (Old War). Attorney-General. Apr. 10, 1882. Instructions of Teller, H. M., Secretary. May 12, 1882. Vol. 9, pp. 203 and 236.

See SPECIAL ACTS, par. 16.

(4) The applicant filed his claim for pension November 20, 1880, on account of disability resulting from chronic diarrhoea and malarial fever, and it was allowed at the rate of \$50 per month from the date of filing the application. He entered an appeal for the higher rate of \$72, and in deciding the same the following language is used, viz :

"He claims on appeal that he should have been allowed \$72 per month under the act of Congress approved June 16, 1880, which provides that all soldiers and sailors who were then receiving a pension of \$50 should receive in lieu thereof \$72 per month.

"It has been held by the Department that the intent and spirit of the act of June 16, 1880, was that those soldiers and sailors who at that date were in consequence of their disabilities entitled to \$50 per month under the law of June 18, 1874, should have the same increased to \$72, and hence the law has been construed to include not only those who were actually on the rolls at \$50 per month at the date of the passage of the act, but also those whose applications for pensions were pending at that time, and the degree of disability was found such as to entitle them to \$50 per month to date prior to June 16, 1880.

"In this case, however, for some reason the application for pension was not filed until November 20, 1880, five months after the passage of the act above referred to, and under the law his pension must date from that time. His claim for increase must therefore be denied as, at the passage of that act, he was not in the receipt of a pension nor had he made an application for one."

Hopkins, Thomas S. Ctf. No. 189,988. Muldrow, H. L., Acting Secretary. Mar. 28, 1885. Vol. 11, p. 476.

RULING OF THE COMMISSIONER OF PENSIONS.

RULING No. 72. *November 17, 1881.*

If a claimant had an application filed prior to June 16, 1880, claiming pension at the rate of \$50 per month under act of June 18, 1874, and if pension is granted at \$50 to date prior to June 16, 1880, such a claimant is entitled to \$72 per month, under the act last above named.

Act of March 3, 1883.

24. (1) It appears to the Department that it would be proper to regard all pensioners whose disabilities are equivalent to that caused by the loss of an arm at or above the elbow, or a leg at or above the knee,

INCREASE (INVALID)—Continued.

"as so disabled as to be incapacitated for performing any manual labor" within the meaning of the act of March 3, 1883, and entitled from and after March 3, 1883, to the rate of \$30 per month..

Martin, Thomas H. Ctf. No. 11,986. Teller, H. M., Secretary. June 2, 1884. Vol. 11, p. 276.

(2) Soldier originally pensioned at \$8 per month from April 15, 1857, the date of his discharge from the service, for a severe gunshot wound of right shoulder. Pursuant to changes in the law the original rate was increased, from time to time, to \$15, \$18, and \$24 per month, respectively, the last increase being allowed under the act of March 3, 1883. It was claimed on appeal that those ratings were too low and that they should have been, respectively, \$20 from June 6, 1866, \$24 from June 4, 1872, and \$30 from March 3, 1883: *Held*, that, notwithstanding the fact that the evidence shows the wounded arm is useless, the statute does not allow \$30 per month for an injury *equivalent* to its loss. The soldier, to be entitled to that rate, must have suffered actual loss of the arm at or above the elbow, or his disability must be such as to incapacitate him for any manual labor. The evidence does not show that he is disabled to that extent. Action of Pension Office refusing to allow \$30 from March 3, 1883, approved.

Cribian, John. Ctf. No. 3,689. Jenks, G. A., Assistant Secretary. Aug. 6, 1885. Vol. 12, p. 33.

See RATES OF PENSION.

INCREASE (INVALID), ATTORNEY'S FEES IN CLAIMS FOR.

See FEES OF AGENTS AND ATTORNEYS IN CLAIMS FOR INCREASE.

RULING OF THE COMMISSIONER OF PENSIONS.

RULING No. 25. March 26, 1873.

The date of commencement in allowance of applications for increase, "except in cases of permanent and specific disability," as per last clause of section 4, act of March 3, 1873, shall be the date of first examining surgeon's certificate, made pursuant to such application for increase, which shall describe and show the existence of an increased disability. Satisfactory proof of continuous existence of the disability for which pension was allowed shall be sufficient to warrant an order for the restoration to the pension-rolls of the name of any pensioner dropped therefrom by order of this Office, by reason of the inadvertence or ignorance of an examining surgeon, or other alleged evidence that said disability had ceased to exist; and any pensioner so restored shall be entitled from the date at which his name may have been dropped.

ORDER OF THE COMMISSIONER OF PENSIONS.

ORDER No. 7. July 5, 1871.

In all claims for increase, the record and medical evidence upon which the original action was based must be spread upon the brief, that a con-

INCREASE (INVALID), ATTORNEY'S FEES IN CLAIMS FOR—Cont'd.

nection may be traced in subsequent developments of disease or disability.

INCREASE (INVALID), RECONSIDERATION OF RATE OF.

See RE-RATING AND SECRETARY OF THE INTERIOR.

INCREASE (WIDOWS AND MINORS).**Section 4703, Revised Statutes.**

The pensions of widows shall be increased from and after the twenty-fifth day of July, eighteen hundred and sixty-six, at the rate of two dollars per month for each child under the age of sixteen years of the husband on account of whose death the claim has been, or shall be, granted. And in every case in which the deceased husband has left, or shall leave, no widow, or where his widow has died or married again, or where she has been deprived of her pension under the provisions of the pension law, the pension granted to such child or children shall be increased to the same amount per month that would be allowed under the foregoing provisions to the widow, if living and entitled to a pension: *Provided*, That the additional pension herein granted to the widow on account of the child or children of the husband by a former wife shall be paid to her only for such period of her widowhood as she has been, or shall be, charged with the maintenance of such child or children; for any period during which she has not been, or she shall not be, so charged, it shall be granted and paid to the guardian of such child or children: *Provided, further*, That a widow or guardian to whom increase of pension has been, or shall hereafter be, granted on account of minor children shall not be deprived thereof by reason of their being maintained in whole or in part at the expense of a State or the public in any educational institution, or in any institution organized for the care of soldiers' orphans.

Sec. 9, 3 Mar., 1873; sec. 2, 25 July, 1866; sec. 4, 27 July, 1868; sec. 5, 27 July, 1868.

DECISIONS OF THE SECRETARY OF THE INTERIOR.**1. Due to pensioners under special acts.**

Ward, Anna E. Ctf. No. 176,310. Browning, O. H., Secretary. Jan. 17, 1867. Vol. 2, p. 7.

2. Commences July 25, 1866.

Proctor, G. W. N. Ctf. No. 116,337. Cox, J. D., Secretary. May 13, 1869. Vol. 2, p. 106.

3. None due if widow never applied therefor until after her remarriage.

Free, Maria. Ctf. No. 51,284. Delano, C., Secretary. Oct. 21, 1870. Vol. 1, p. 91.

4. Commences from date of original pension in cases where the latter commences from date of filing of last evidence.

Rich, Mary. App. No. 142,009. Delano, C., Secretary. Oct. 21, 1870. Vol. 1, p. 91.

INCREASE (WIDOWS AND MINORS)—Continued.

5. Under act of June 6, 1874, commences with original pension.

Raferty, Patrick, minors of. Ctf. No. 157,188. Delano, C., Secretary. Oct. 12, 1874. Vol. 3, p. 382.

6. No fee due attorneys in claims of minors for increase of pension.

Whitley, W. D., minors of. Ctf. No. 147,790. Delano, C., Secretary. Aug. 24, 1875. Vol. 4, p. 99.

RULING OF THE COMMISSIONER OF PENSIONS.

RULING No. 49. *December 7, 1870.*

An increase provided for by the act of July 25, 1866, cannot commence at a date prior to that allowed by original pension certificate.

INDIANS' CLAIMS.**Section 4721, Revised Statutes.**

The term of limitation prescribed by sections forty-seven hundred and nine and forty-seven hundred and seventeen shall, in pending claims of Indians, be extended to two years from and after the third day of March, eighteen hundred and seventy-three; all proof which has heretofore been taken before an Indian agent, or before an officer of any tribe, competent according to the rules of said tribe to administer oaths, shall be held and regarded by the Pension Office, in the examining and determining of claims of Indians now on file, as of the same validity as if taken before an officer recognized by the law at the time as competent to administer oaths; all proof wanting in said claims hereafter, as well as in those filed after the third day of March, eighteen hundred and seventy-three, shall be taken before the agent of the tribe to which the claimants respectively belong; in regard to dates, all applications of Indians now on file shall be treated as though they were made before a competent officer at their respective dates, and if found to be in all other respects conclusive, they shall be allowed; and Indians shall be exempted from the obligation to take the oath to support the Constitution of the United States.

First part of section repealed by the repeal of sec. 4717. See Sec. 4705, R. S., under head of LEGITIMACY OF COLORED AND INDIAN SOLDIERS.

ORDER OF THE COMMISSIONER OF PENSIONS.

ORDER No. 17. (No date.)

Applications for pension and bounty-lands by Indians sustaining tribal relations, or their heirs, will be submitted, before action thereon, to the Commissioner of Indian Affairs. Certificates and warrants therefor will be transmitted through the said Commissioner. Agents will pay all amounts due, less the fees allowed by the Commissioner, and the fees authorized to be paid by Office of Indian Affairs to the attorneys.

INDIANS, WARS WITH, DURING WAR OF 1812.

See SERVICE PENSIONS, WAR OF 1812, *par.* 13.

INDIANS, ATTORNEYS IN CLAIMS OF.

See ATTORNEYS.

INFORMAL DECLARATIONS.

See DECLARATIONS, FORMAL AND INFORMAL.

INJURY.

The word "injury" in act of June 18, 1874, is used in the same sense as the word "disability." (*See* DISABILITY.)

Schmidt, Henry. Ctf. No. 35,234. Chandler, Z., Secretary. Feb. 11, 1876. Vol. 4, p. 197.

INSANITY.

See LIMITATION, *par.* 11; LINE OF DUTY, *par.* 17, and PRESUMPTION OF FACT, *par.* 2.

INTEMPERANCE.

Death of soldier of disease contracted in service, and aggravated by the habitual use of intoxicating liquors, does not entitle the widow to the benefits of the general pension law.

Johnson, Abby A. Ctf. No. 135,444. Delano, C., Secretary. May 31, 1875. Vol. 4, p. 56.

See CAUSE OF DEATH.

J.**JURISDICTION.**

Secretary of the Interior, Commissioner of Pensions, Pension Agents, Sec. and Comptroller, Third Auditor.

In his opinion dated April 28, 1882, the Attorney-General uses the following language, to wit:

"I understand that Chapter Five, under the head of 'Department of the Interior,' in the Revised Statutes, places the entire administration of the pension laws in the control of that Department, and that section 471 designates the Commissioner of Pensions as the officer whose special duty it is, under the direction of the Secretary, to administer and carry into execution these laws. He shall perform, to use the language of the statute, 'such duties in the execution of the various pension and bounty-land laws as may be prescribed by the President.' By which I understand that the Commissioner of Pensions is the officer provided by law in whose hands the President, as the executive head of the nation, shall place this part of his administration, to wit, the execution of the pension and bounty-land laws.

JURISDICTION—Continued.

"*Pension agents* are officers of the Department of the Interior, and take their instructions from the Commissioner of Pensions—sections 4779, 4784, 4785. There is no allusion in any of the pension laws to the accounting officers of the Treasury as having any authority to construe those laws, or to direct the pension agents as to the amount that shall be paid to any class of pensioners, or to whom pensions shall be paid. This is matter for the supervision and instructions of the Commissioner. The certificate and his orders as to its payment are binding upon the Comptroller and Auditor.

"If a payment has the authority of the Commissioner of Pensions, and especially if it has the sanction of the Secretary of the Interior, the decision is final. For the jurisdiction of the whole matter is in these officers.

"The duty of the accounting officers in respect to pensions is to audit the accounts relating to them, and to certify the balances." (See section 277, R. S.) But this does not require that they shall take from the Commissioner of Pensions the jurisdiction with which the law clothes him, to construe and administer the pension laws, or to interfere with his instructions to pension agents. On the contrary they are bound to conform to his decisions."

Minors of Alexander Boone. Ctf. No. 182,930. Opinion of Attorney-General. Apr. 28, 1882. Teller, H. M., Secretary. May 11, 1882. Vol. 9, pp. 191 and 196.

JUSTICES OF THE PEACE (NOTARIES, &c.).

1. Illiteracy of magistrate does not impair the sufficiency of his certificate.

Holland, Z. Smith, C. B., Secretary. Nov. 12, 1862. Vol. 2, p. 170.

2. Affidavit taken before, acting as the attorney in the case, cannot be taken as evidence.

Sinclair, William A. App. No. 29,827. Chandler, Z., Secretary. July 5, 1876. Vol. 4, p. 332.

3. Exercising the functions of, under a State in rebellion against the United States is an act of disloyalty.

Harris, J. D. App. No. 28,521. Gorham, Charles F., Acting Secretary. Oct. 12, 1876. Vol. 4, p. 418.

L.**LEGITIMACY.****Section 4704, Revised Statutes.**

In the administration of the pension laws, children born before the marriage of their parents, if acknowledged by the father before or after the marriage, shall be deemed legitimate.

Sec. 10, 3 Mar., 1883.

LEGITIMACY OF THE CHILDREN OF COLORED AND INDIAN SOLDIERS.

Section 4705, Revised Statutes.

The widows of colored and Indian soldiers and sailors who have died, or shall hereafter die, by reason of wounds or injuries received, or casualty received, or disease contracted, in the military or naval service of the United States, and in the line of duty, shall be entitled to receive the pension provided by law without other evidence of marriage than satisfactory proof that the parties were joined in marriage by some ceremony deemed by them obligatory, or habitually recognized each other as man and wife, and were so recognized by their neighbors, and lived together as such up to the date of enlistment, when such soldier or sailor died in the service, or if otherwise, to date of death; *and the children born of any marriage so proved shall be deemed and held to be lawful children of such soldier or sailor, but this section shall not be applicable to any claims on account of persons who enlist after the third day of March, one thousand eight hundred and seventy-three.*

Sec. 11, 3 Mar., 1873; sec. 14, 14 July, 1864; sec. 14, 6 June, 1866; sec. 2, 15 June, 1866; As to "Indian," sec. 11, 3 Mar., 1872.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. Of son not essential to the validity of a mother's claim.

Bush, Johanna. App. No. 2,489. Usher, J. P., Secretary. June 15, 1863. Vol. 1, p. 25.

2. Of children governed by laws of the State in which they were born.

Pinkham, Mrs. M. J. App. No. 1,426. Browning, O. H., Secretary. June 22, 1867. Vol. 2, p. 25.

3. Of minors essential to entitle them to pension.

Corwell, Sarah J. Ctl. No. 6,782. Chandler, Z., Secretary. Jan. 31, 1876. Vol. 4, p. 193.

4. The soldier, the father of the claimant, and her mother, prior to his enlistment, "were living together and cohabiting under a promise of future marriage. The claimant was begotten while her parents were living in this relationship. She was born after her father had entered the service, and at a time when the cohabitation *in fact* had no existence. It is claimed that the father in his life-time had recognized her as his child, and had promised to marry the mother, when he should return from the service, and 'thus render' the claimant legitimate."

It was decided, on appeal, that "this intercourse of the parents did not constitute a common-law marriage. It never could have ripened into such as long as that relation continued. The cohabitation of the parents was adulterous, under the laws of Indiana, where they cohabitated, and was criminal." The child was illegitimate, and could only become legitimate by the subsequent marriage of her parents and her recognition by her father as his child.

Gierhart, Emma. No. 208,029. Teller, H. M., Secretary. Apr. 21, 1883. Vol. 10 p. 330

LEGITIMACY OF THE CHILDREN OF COLORED AND INDIAN SOLDIERS—Continued.**RULINGS OF THE COMMISSIONER OF PENSIONS.****RULING No. 32. (No date.)**

The legitimacy of soldier is not necessary to entitle minor brothers and sisters.

RULING No. 33. April 8, 1876.

If a man marry, and by his wife children are born to him, and, while such marriage continues, cohabits with another woman, and children are also born to them in such cohabitation, and, pending that cohabitation, the wife dies, and he afterwards marries the woman with whom he had so cohabited, and, either before or after the last marriage, he acknowledges, as his own, the children so born out of wedlock, and thereafter dies, the widow, if pensionable on account of his death, may have the increase on account of her own, as well as the children by the former wife, if charged with their maintenance, but will be entitled to the increase on account of the children by the former wife only so long as she is charged with their support.

Local laws have no bearing on the status of children born out of wedlock in the administration of the pension laws. Section 4704, Revised Statutes, is universal in its application.

LIFE INSURANCE.**DECISION OF THE SECRETARY OF THE INTERIOR.**

Application for, by pensioner does not forfeit pension if disability still exists.

Sanderson, John W. Ctl. No. 1,959. Cowen, B. R., Acting Secretary. Nov. 4, 1875. Vol. 4, p. 141.

LIMITATION.**Section 4694, Revised Statutes.**

No person shall be entitled to a pension by reason of wounds or injury received or disease contracted in the service of the United States subsequent to the twenty-seventh day of July, eighteen hundred and sixty-eight, unless the person who was wounded, or injured, or contracted the disease was in the line of duty; and, if in the military service, was at the time actually in the field, or on the march, or at some post, fort, or garrison, or *en route*, by direction of competent authority, to some post, fort, or garrison; or, if in the naval service, was at the time borne on the books of some ship or other vessel of the United States, at sea or in harbor, actually in commission, or was at some naval sta-

LIMITATION — Continued.

tion, or on his way, by direction of competent authority, to the United States, or to some other vessel, or naval station, or hospital.

Sec. 1, Mar. 3, 1873. Sec. 2, July 27, 1868.

Act of January 25, 1879.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all pensions which have been granted under the general laws regulating pensions, or may hereafter be granted, in consequence of death from a cause which originated in the United States service during the continuance of the late war of the rebellion, or in consequence of wounds, injuries, or disease received or contracted in said service during said war of the rebellion, shall commence from the date of the death or discharge from said service of the person on whose account the claim has or shall hereafter be granted, or from the termination of the right of the party having prior title to such pension.

Sec. 15, Mar. 3, 1873; sec. 5, July 14, 1862; sec. 6, July 4, 1864; sec. 13, June 6, 1866; sec. 6, July 27, 1868. Repealing sec. 4704, R. S. For repealed section, see ADDENDA.

Section 2 of the act of March 3, 1879.

All pensions which have been, or which may hereafter be, granted in consequence of death occurring from a cause which originated in the service since the fourth day of March, eighteen hundred and sixty-one, or in consequence of wounds or injuries received, or disease contracted since that date, shall commence from the death or discharge of the person on whose account the claim has been, or is hereafter, granted, if the disability occurred prior to discharge; and if such disability occurred after the discharge, then from the date of actual disability, or from the termination of the right of party having prior title to such pension: *Provided*, The application for such pension has been, or is hereafter, filed with the Commissioner of Pensions prior to the first day of July, eighteen hundred and eighty; otherwise the pension shall commence from the date of filing the application; but the limitation herein prescribed shall not apply to claims by or in behalf of insane persons and children under sixteen years of age.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. In claims of invalids, begins at discharge from service in which the disability originated.

Best, Frank. App. No. 96,617. Cox, J. D., Secretary. Apr. 13, 1869. Vol. 2, p. 107.

2. Mother's claim filed after the expiration of the five years' limitation imposed by section 6, of the act of July 27, 1868, was admitted and pension made to commence from the date of filing the last material evidence.

LIMITATION—Continued.

Claim for arrears of pension from date of son's death rejected, and rejection affirmed on appeal.

Mother of George Shinefield. Ctf. No. 113,717. Cox, J. D., Secretary. June 2, 1899. Vol. 2, p. 108.

3. Pensions under special acts are not subject to the limitation prescribed by section 6, act of July 27, 1868.

Harrison, Mrs. R. S. App. No. 695. Cox, J. D., Secretary. Aug. 3, 1899. Vol. 2, pp. 123, 135.

4. Does not apply to claims for restoration or renewal of pension.

Wheeler, Agnes. File No. 3,304. Cox, J. D., Secretary. Oct. 4, 1899. Vol. 1, p. 72.

Deering, John. Ctf. No. 32,784. Delano, C., Secretary. Nov. 25, 1873. Vol. 3, p. 67.

5. Begins at death of soldier, if he dies leaving no widow, child, or mother.

Click, Elisha. Ctf. No. 141,087. Delano, C., Secretary. Mar. 17, 1870. Vol. 1, p. 91.

6. Applies, whether negligence in filing claim was the fault of attorney or claimant.

Stevens, Sarah H. App. No. 185,627. Delano, C., Secretary. Nov. 21, 1870. Vol. 2, p. 203.

7. Cannot be lessened by reason of a subsequent term of service, civil or military.

Smith, William L. App. No. 104,755. Delano, C., Secretary. Feb. 6, 1871. Vol. 1, p. 99.

8. In claims of brothers, sisters, and fathers, if claimed under section 6, of the act of July 27, 1868, begins June 6, 1866.

Frazier, George. App. No. 148,019. Delano, C., Secretary. May 27, 1871. Vol. 1, p. 108.

9. In claims of mothers commences July 14, 1862.

Parker, Susan. Ctf. No. 538. Delano, C., Secretary. June 14, 1871. Vol. 1, pp. 84, 114.

[NOTE.—In this decision it was held that a mother's right to pension accrued upon the passage of the act of July 14, 1862, and that the limitation commences to run from that date.]

10. A service is not continuous which is broken by an interregnum of two days between the date of discharge from one, and the date of enlistment in the other, and the bar of limitation would commence to run from the date of discharge from the earlier service, provided the disability was contracted in that service.

Hyland, John. Ctf. No. 117,078. Delano, C., Secretary. Dec. 2, 1872.

[NOTE.—This decision applies to cases under the five years limitation laws in force prior to the act of Jan. 25, 1879, and its amendment.]

11. Does not apply during time claimant was insane.

Cunningham, Richard J. Ctf. No. 119,613. Delano, C., Secretary. May 5, 1873. Vol. 1, p. 360.

[NOTE.—In this case the claimant became insane about four months prior to the expiration of the five years limitation, and did not apply for pension until four or five months after that limitation expired. His claim for arrears was allowed.]

12. In cases of invalids begins at date of final payment, if the members of the organization to which he belonged were under military authority until that date.

Ferguson, Henry. Ctf. No. 117,390. Cowen, B. R., Acting Secretary. Oct. 28, 1873. Vol. 3, p. 49.

LIMITATION—Continued.**13. Applies to claim of widow filed after her marriage.**

Simons, Minerva J. App. No. 212,002. Delano, C., Secretary. July 10, 1874. Vol. 3, p. 270.

14. Runs from, and does not include, date of discharge or death.

Millar, Wilson. Ctf. No. 125,847. Delano, C., Secretary. Sept. 7, 1874. Vol. 3, p. 297.

15. In cases of non-enlisted men, applies also to the claims of their widows.

Goanell, Margaret. App. No. 176,141. Delano, C., Secretary. Jan. 26, 1875. Vol. 3, p. 443.

[NOTE.—In other words, the widow of a non-enlisted man cannot be allowed pension where the soldier's right, if he were living, would be barred by the limitation imposed by paragraph 3, section 4693, R. S.]

16. Begins from the time a minor arrives at the age of sixteen years in cases where they apply in their own behalf.

Nyland, Cornelia E. App. No. 222,226. Chandler, Z., Secretary. Apr. 12, 1876. Vol. 4, p. 269.

17. There is no limitation as to time of filing pension claims of minors.

Fritsche, Karoline. Ctf. No. 184,029. Bell, A., Acting Secretary. May 19, 1881. Vol. 8, p. 247.

(See sec. 2, act of Mar. 3, 1879; sec. 4702, R. S.)

18. The act of August 7, 1882, to amend section 4702, Revised Statutes, does not repeal the limitation as to date of filing contained in section 2, act of March 3, 1879. It simply provides that, where a widow has continued to draw pension after the date of her marriage, the pension to minor children shall commence from the date of the last payment to her.

Kinyon, Phoebe, widow. Ctf. No. 194,456. Teller, H. M., Secretary. Apr. 7, 1883. O. W. and N. Vol. 3, p. 153.

[NOTE.—Most of the foregoing decisions of the Secretary of the Interior on the subject of *Limitation* are reproduced here more for purposes of history than for any actual value they now have. Under the arrears act of January 25, 1879, all pensions which have been granted under the general law, or may hereafter be granted in consequence of death from a cause which originated in the United States service during the late war of the rebellion, or in consequence of wounds, injuries, or disease received or contracted in said service, during said war, shall commence from the date of the death or discharge from said service of the person on whose account the claim has been, or shall hereafter be, granted, or from the termination of the right of the party having prior title to such pension, subject to the proviso contained in section 2, of the act of March 3, 1879, that "the application for such pension has been, or is hereafter, filed with the Commissioner of Pensions prior to the 1st day of July, 1880; otherwise the pension shall commence from the date of filing the application." This does not apply to the claims of non-enlisted men of the late war, or their heirs, whose claims are still subject to the limitation imposed by par. 3, sec. 4693 of the Revised Statutes, nor to minors and insane persons against whose claims the law imposes no limitation.]

RULINGS OF THE COMMISSIONER OF PENSIONS.**RULING No. 34. August 20, 1875.**

A soldier, mustered out on individual muster-out roll, subsequent to the disbandment of the organization to which he belonged, shall be considered as having been in service until the date of his certificate of discharge, and such date shall be taken as the date from which the limitation prescribed by section 4709, Revised Statutes, commences to run: *Provided*, That the soldier was continuously under the orders of

LIMITATION—Continued.

his superior officers and his retention in service was not the result of his own fault.

RULING No. 71. *November 17, 1881.*

The three years' limitation provided by section 4719, Revised Statutes, will not apply in the case of a pensioner who, within the three years, shall have died, or shall have been insane, or been a minor, with or without a guardian.

LIMITATION IN ANTE-REBELLION CLAIMS.

See OLD WARS, par. 13.

LIMITATION IN NAVY CLAIMS.

See NAVY, par. 9.

LINE OF DUTY.**RELATION OF, TO PENSIONS, AS DEFINED BY HON. CALEB CUSHING, ATTORNEY-GENERAL OF THE UNITED STATES.**

See DECISIONS OF ATTORNEYS-GENERAL, vol. 7, p. 149.

1. When the statute provides pension for disability or death occasioned by wounds or injuries received, casually occurring, or disease contracted in the line of duty, it intends that the performance of duty must have relation of causation or consociation, mediate or immediate, to the wound, the casualty, the injury, or the disease which produces the disability or death.

To determine the right of pension, the question is not whether, when the cause of disability or death occurred, the party was on duty or not, in active service, or on furlough or leave, in arrest or not, but whether, in any of the possible conditions of service, the cause of disability or death was appurtenant to, dependent upon, or connected with acts within or acts without the line of duty.

Upon the question of casualty the opinions of experts are evidence, but they do not constitute either exclusive or conclusive proof; and the question is to be judged by the real facts, like any other matter of evidence.

Where the proofs as to the question of actor and subject are balanced, and it is impossible to determine by them whether the case be one of contemporaneity or collocation only, or of cause and consequence, it is a reasonable inference of public policy to presume in favor of the service.

It is according to public policy to presume in favor of the service, where the "line of duty" enters potentially into the causes of disability

LINE OF DUTY—Continued.

or death, although it be not certainly provable that it was the exclusive or predominant cause.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

2. (1) The presumption of law is that every person engaged in the public service performs his duty until the contrary is shown. A soldier is in line of duty whenever he is acting in conformity to the regulations of the Army and the orders of his superior officers. It cannot be presumed, in the absence of proof, that he was acting in violation of such regulations and orders.

Cook, Nathaniel. Smith, C. B., Secretary. Nov. 8, 1862. Vol. 2, p. 110.

Brewer, Jackson A., guardian of minors of. App. No. 164,315. Delano, C., Secretary. May 15, 1875. Vol. 4, p. 88.

(2) *Per contra.* A soldier is *not* in line of duty while violating any established Army regulation.

Champion, D. B. App. No. 58,835. Harlan, J., Secretary. Aug. 18, 1865. Vol. 2, p. 182.

Addis, James R. App. No. 47,291. Harlan, J., Secretary. Dec. 21, 1865. Vol. 1, p. 46.

(3) It is the duty of a soldier not only to obey orders but to refrain from voluntarily doing any act not required by the service, and which he knows is liable to injure the service by rendering him inefficient as a soldier.

Brown, John. Ctf. No. 113,260. Schurz, C., Secretary. Feb. 14, 1881. Vol. 8, p. 140.

3. Death of a naval assistant engineer after his discharge from the service (subsequent to March 4, 1861, but prior to the passage of the act of July 14, 1862), entitles his widow to pension under said act if the cause of his death had its origin in the service and line of duty.

Horne, Mrs. A. Usher, J. P., Secretary. June 24, 1863. Vol. 1, p. 26.

4. (1) To give title to pension it must be shown not only that the disability alleged was contracted in the military service of the United States, but in the line of duty in that service.

Call, Parnella M. No. 27,292. Usher, J. P., Secretary. Sept. 11, 1863. Vol. 1, p. 28.

(2) Disease resulting in death must have been contracted in line of duty to entitle widow.

Horst, Barbara. App. No. 169,894. Cox, J. D., Secretary. June 2, 1869. Vol. 2, p. 108.

5. Colonel Vimont, while engaged in the performance of duty, was approached by an officer of inferior rank who made improper demands of him concerning some remarks which had been made to another officer. Upon Colonel Vimont's declining to yield to those demands he was assaulted, and a quarrel ensued during which he received injuries which caused his death: *Held*, that he was in line of duty, and his widow's claim for pension should be allowed.

Vimont, Col. T. T., widow of. App. No. 65,251. Harlan, J., Secretary. Jan. 17, 1866. Vol. 1, p. 50.

LINE OF DUTY—Continued.

6. Death of soldier from eating green fruit. Widow entitled to pension.

Colle, Anastasia. App. No. 36,260. Delano, C., Secretary. Jan. 4, 1873. Vol. 1, p. 242

7. Where soldier died from the effects of a dose of fluid extract of colchicum which had been prescribed for another man, and which he appropriated willfully under the impression that the vial contained whisky: *Held*, that his death under those circumstances cannot be considered as having occurred in line of duty, and rejection of his widow's claim affirmed.

McCarty, John, widow of. App. No. 128,305. Kirkwood, S. J., Secretary. July 14, 1881. Vol. 8, p. 358.

RULINGS OF THE COMMISSIONER OF PENSIONS.**RULING No. 16. (No date.)**

Where it is shown that a soldier has performed military duty with his company, and that he has died, or has been disabled, by reason of any disease likely to result from the service, while with his company, or while properly absent on detailed duty, or sick leave, or in hospital, then the death or disability may, in the absence of indications to the contrary, be assumed to have been incurred in the line of duty, if indicated by record evidence.

RULING No. 17. August 14, 1869.

When it is reported by the Adjutant General and the Surgeon General that a soldier was wounded at a time and place when a battle was fought, and dies of such wounds, it should be inferred that said wound was received in action and line of duty.

RULING No. 101. May 9, 1885.

Claimant alleged fracture of right collar-bone caused by a fall from his bunk. According to the testimony the bunk was erected in a stable or shed where were quartered the horses of the command. It was shown that the company was stationed in Washington, D. C., and that comfortable quarters were provided for the men. It was also shown that the claimant had been drinking: *Held*, that, throwing aside the question of intoxication, in view of the discrepancies between the claimant's allegations and the proof adduced, the origin of the alleged injury in service and line of duty is not satisfactorily shown, and claim should be rejected.

Clark, George. App. 342,847.

ORDER OF THE COMMISSIONER OF PENSIONS.**ORDER No. 8. July 12, 1871.**

All cases wherein a doubt exists as to whether the disability or death was received while in line of duty shall be referred to the Commissioner for action.

LINE OF DUTY—Continued.**8. ABSENCE, WITH OR WITHOUT LEAVE, FOR PURPOSES NOT CONNECTED WITH THE SERVICE.****DECISIONS OF THE SECRETARY OF THE INTERIOR.**

(1) Death of soldier while on leave to attend to private business. Widow not entitled to pension.

McCabe, Rosalinda. App. No. 38,604. Harlan, J., Secretary. July 21, 1865. Vol. 2, p. 181.

(2) Is not accepted when the soldier, on a verbal pass, for a purpose not connected with the service, was captured.

Newman, Robert. App. No. 115,233. Schurz, C., Secretary. Nov. 20, 1879. Vol. 7, p. 75.

(3) Soldier not in line of duty when disability is contracted while in pursuit of pleasure or absent to attend to private business.

Powell, Benj. F. V. Ctf. No. 59,029. Schurz, C., Secretary. Jan. 3, 1880. Vol. 7, p. 145. (*Vide* Dodson, George. No. 245,899. Schurz, C., Secretary. Dec. 8, 1880. Vol. 8, p. 61.)

(4) Pension was claimed for the loss of one of the applicant's fingers from a wound caused by the accidental discharge of a revolver in his own hands, while absent from his command, by permission of his captain, shooting fish for food in the rear of Vicksburg, Miss., about July 1, 1863. The claim was rejected upon the ground that the soldier was not in the line of duty when he received the wound. The rejection was affirmed by the honorable Secretary on appeal, who held that it was "in accordance with the established practice of the Pension Office approved by the Department." He also states that "it has been uniformly held that a soldier absent from his command of his own volition merely, and not acting under any military order, is not in the line of duty;" and that as section 4700, Revised Statutes, has made provision "for persons absent on account of sickness or under a furlough particularly designated, it must be understood that those not on public duty who may be absent from other causes and under other circumstances, are excluded. The principle involved is the same, whether the person be absent for a short or long time."

Seamon, Benjamin W. No. 268,902. Kirkwood, S. J., Secretary. Nov. 19, 1881. Vol. 8, p. 483.

(5) It was claimed that the husband of the applicant had permission, with others, to leave camp and cross the Potomac River to attend a supper, and that on his return he was accidentally drowned. There being testimony on file showing that he left his post without authority, the claim of his widow was rejected, upon the ground that he was not in the line of duty when he came to his death.

On appeal, it was *held*, notwithstanding this testimony, "that if the statements made in support of the claim were true, they show that the applicant is not entitled, for the reason that the husband at the time of the accident which caused his death was not engaged in any military duty, but was absent from his command for a purpose not in any manner connected with his duty as a soldier."

Bragunier, Elizabeth. No. 115,529. Teller, H. M., Secretary. May 23, 1882. Vol. 9, p. 216.

LINE OF DUTY—Continued.

(6) The claimant and a comrade, while on a march with his company from Fort Scott to Sedalia, Mo., in January, 1864, "obtained permission from a lieutenant of the company to leave the command for one night, in order to visit some relatives who lived about three or four miles off the line of march, with the understanding that they were to rejoin the command on the following day at a point further along the route.

While going to pay the visit the claimant and his companion lost their way in a furious snow-storm which obscured the roads, and the result of the exposure then endured was the freezing of his feet and the disability on account of which he claims pension."

Rejection of the claim upon the ground that the claimant was not in the line of duty at the time he incurred the disability was affirmed, it being held that "in the administration of the pension laws the Department has uniformly held that a soldier while absent from his command by permission or on furlough was not in the line of duty, and consequently not entitled to pension for disability incurred while so absent, unless he was engaged upon some public duty, or was on sick leave or veteran furlough with the organization to which he belonged."

"The claimant in the present case was not absent under the conditions above stated."

Pruitt, John. No. 160,699. Teller, H. M., Secretary. June 17, 1882. Vol. 9, p. 266.

(7) A soldier passed without the lines in the night time, by permission of his captain, to go to the house of a friend whose family had baked him some bread. A portion of the command was out on a scout at the same time and came upon the soldier, and ordered him to "halt," but supposing them to be enemies, he did not "halt," and, in attempting to escape, was shot at and killed. "At the time of the occurrence the command was stationed in the neighborhood from which it had been recruited, and it was the custom to permit the members to leave camp for the purpose of having washing and baking done by their friends."

The claim of the soldier's children was rejected upon the ground that he was not in the line of duty at the time he was killed.

• On appeal, it was decided that "at the date the soldier was killed the organization of the regiment had not been completed. The command was stationed near the homes of the members, and the evidence shows that the absence of the soldier from the camp to obtain the bread was by permission of his captain, given in conformity with the custom which prevailed in the command of allowing the men to be absent for that purpose.

"It is not improbable that in advance of perfect organization of the regiment the supplies of the command were deficient. Nor is it probable that the custom of going beyond the limits of the camp to obtain bread would have prevailed among the men if equally wholesome bread had been furnished to them within the camp.

LINE OF DUTY—Continued.

"It would seem to be just, therefore, to conclude that the absence of the soldier, by permission, was for a necessary purpose connected with the service, and as it does not appear that his death was due to any fault on his part, that he was in the line of duty. * * *

"If the soldier, at the time of his death, had been absent on his own private business, or for pleasure, or to obtain some luxury or article not necessary to his health or comfort, a different conclusion would follow.

"The views above expressed do not conflict with the decisions of the Department heretofore, the tenor of which has not been adverse to the allowance of pension in cases when the soldier incurred disabilities while temporarily absent by permission for a purpose growing out of or connected with the public service."

Evans, William D., minors of. No. 255,527. Teller, H. M., Secretary. Sept. 27, 1882. Vol. 9, p. 382.

(8) The Forty-eighth Regiment Massachusetts Volunteers, to Company A of which the claimant belonged, was in camp in that State, and understanding that it would not leave for the South for some days, "he left camp without permission and went home. On the third day after he left he returned, but found that his regiment had left for New Orleans. He reported to Captain Todd, of Company K," of the same regiment, and "remained with a detachment commanded by him until they embarked on the "De Witt Clinton" for New Orleans." * * * "While on that vessel, between Boston and Fortress Monroe, he contracted the disease on account of which he claims pension."

In deciding the question of line of duty in this case, on appeal, it was held:

"Although it was through a fault on the part of the soldier that he was separated from his company and regiment he must, in the view of the Department, be regarded as having come within the line of duty at the time he returned to the camp and reported to the proper authority after his absence without leave. Any disability he may have contracted from exposure to which he was necessarily subjected while on board the "De Witt Clinton" is due to his service and not to the fact that he had previously been absent without leave, and was incurred in the line of duty."

Batchelder, Albert R. No. 175,148. Teller, H. M., Secretary. June 21, 1883. Vol. 10, p. 470.

RULINGS OF THE COMMISSIONER OF PENSIONS.**RULING No. 100. May 6, 1885.**

Where a soldier was absent without leave and, by order of a lieutenant of his company who was not on duty, attempted to arrest a number of deserters, and in a scuffle which ensued was injured: *Held*, that he was not in line of duty, and therefore not entitled to pension for the disability resulting from the injury thus received.

Smith, George W. App. No. 289,683.

LINE OF DUTY—Continued.**RULING No. 125. July 22, 1885.**

Where soldier was captured by the enemy while "outside the pickets and camp guards," and during his subsequent imprisonment contracted a disability for which he claimed pension: *Held*, that inasmuch as it is not shown that the soldier had any intention to desert, the penalty of desertion should not be inflicted upon him. He should be regarded as having been in line of duty when his disability was contracted and his claim should be allowed.

Case of ——— Newman. App. No. 115,233.

9. ACCIDENTS. CARELESSNESS.**DECISIONS OF THE SECRETARY OF THE INTERIOR.**

(1) Soldier, while on guard, setting on some steps cut in the ground, had his hand resting on the muzzle of his gun. On rising to his feet the lock of the gun came in contact with the steps and the gun was discharged, carrying away all the fingers of his left hand: *Held*, that the disability should be considered as having been incurred in line of duty. Office decision reversed.

Taylor, Ezra. App. No. 81,585. Harlan, J., Secretary. Mar. 9, 1866. Vol. 1, p. 54.

See BURDEN OF PROOF, par. 2.

(2) Accidental death of the soldier, if not in line of duty, though soldier be not to blame. No one entitled.

Waters, Mary. App. No. 111,332. Browning, O. H., Secretary. Nov. 4, 1867. Vol. 2, p. 54.

(3) Where soldier was killed in camp by the explosion of a shell from which he had removed the fire plug, thus causing the explosion: *Held*, that he was not in line of duty.

O'Donold, Walter O., mother of. App. No. 58,967. Delano, C., Secretary. Mar. 2, 1872. Vol. 1, p. 161.

RULINGS OF THE COMMISSIONER OF PENSIONS.**RULING No. 87. April 7, 1885.**

In a claim for pension based upon an alleged gunshot wound of right hand the captain of the claimant's company testified that the prevailing impression at the time was that the wound was purposely self-inflicted: *Held*, that, inasmuch as claimant allowed more than seventeen years to elapse before he appeared to have thought he had a legal right to pension, there is not sufficient evidence to warrant the allowance of the claim under the statutes, and the other testimony in the case cannot be accepted as rebutting the statements of the captain who investigated the matter at the time of the occurrence.

Graw, Pliny. App. No. 363,890.

RULING No. 128. August 3, 1885.

Where a claimant alleged blood-poisoning caused by accidental inoculation of virus while dissecting an amputated limb: *Held*, that the act

LINE OF DUTY—Continued.

of dissection was performed on the claimant's own responsibility, the Army regulations requiring no such service of medical officers, and injuries sustained under such circumstances are not pensionable, for the reason that they were not incurred in line of duty.

Gay, Norman. App. No. 581,919. Order book, p. 24.

RULING No. 142. November 10, 1885.

Where a claimant alleged that while performing duty as guard at a private house he had to go about one-fourth of a mile for his meals; that on the road between the two places a fort was being built; that on one occasion in going by the fort he stopped and walked up the embankment and then jumped down on the inside to get out of the way of the men at work, and that in falling he sustained an injury to his right knee, the Commissioner *Held*, that, admitting the claimant's statement to be true, the cause of his injury had no connection with his military duty; that he had no right to jump down an embankment, or into a fort, as alleged, any more than he would have had to jump into a well or on to a bayonet; that the cause of the injury was an act of culpable carelessness on the part of the claimant, and that his claim should consequently be rejected.

Premier, Wm. App. No. 396,741. Order book, p. 101.

RULING No. 151. November 25, 1885.

In a claim for pension for loss of right index finger from gunshot wound the original declarations (one formal and one informal) distinctly set forth that said wound was received in a skirmish with the enemy at Catlin's Station shortly before the battle of Bull Run. The same statement was made by the claimant to the first examining surgeon who examined him. The record shows, however, that the soldier "accidentally shot off a finger, August 26, 1862, and since in hospital." (This was just before the battle of Bull Run.)

The claimant, upon being informed that the record was in conflict with his allegations as to the manner of receiving the alleged wound, filed an affidavit setting forth that he was wounded accidentally by the discharge of his own gun while cleaning it in a wagon alone. The testimony of the captain and first lieutenant of his company is also to the effect that the alleged disability was accidentally incurred, although they nor any one else were immediately present with the claimant at the time.

The Commissioner *Held*: that as the claimant at a time when his recollection of the date, place, and manner of the receipt of the alleged wound must, from the very nature of the disability, have been clear and distinct, repeatedly asserted that the same was received in action with the enemy, and, after being informed that the record shows accidental wounding, made oath to a state of facts in direct conflict with his former allegations, he has thrown discredit on his own statements,

LINE OF DUTY—Continued.

and as the record and the testimony of his company officers show that the wound was accidentally received, the application for pension is rejected upon the ground that the claimant has not shown that he was in line of duty when said wound was received.

O'Connor, John, Jr. No. 322,811.

10. ATHLETIC SPORTS.**DECISIONS OF THE SECRETARY OF THE INTERIOR.**

(1) Where soldier was wrestling with his comrades, and a pistol was dropped by one of them, which exploded, causing wound: *Held*, that disability was not contracted in the line of duty.

Stowers, George. Ctf. No. 117,252. Delano, C., Secretary. Jan. 17, 1874. Vol. 3, p. 93.

(2) Soldier not in, while engaged in a voluntary scuffle, and claim for pension on account of a disability so contracted should be rejected.

McPherson, William J. App. No. 218,654. Schurz, C., Secretary. Apr. 27, 1878. Vol. 5, p. 434.

(3) Where injury was received in consequence of charging upon a fellow soldier, in accordance with a "playful custom" which appears to have existed in the regiment, with a view to unhorsing him: *Held*, that the disability was not incurred in the line of duty.

McKee, Thompson W. Ctf. No. 92,252. Bell, A., Acting Secretary. July 31, 1879. Vol. 6, p. 423.

RULING OF THE COMMISSIONER OF PENSIONS.

RULING No. 73. April 20, 1882.

Injuries received by soldiers while engaged in the athletic sports properly indulged in by them while in camp, shall be regarded as received in line of duty, provided ordinary care and prudence were exercised and that the games indulged in were not of an unfriendly character nor in pursuance of any wager.

11. BATHING.**DECISIONS OF THE SECRETARY OF THE INTERIOR.**

(1) Soldier not in, while bathing, unless under orders to do so.

Kelly, Ann, widow of Kelly, Bernard. App. No. 58,074. Harlan, J., Secretary. Mar. 15, 1863. Vol. 2, p. 186. Also, Murray, Priscilla W., mother of Geo. W. App. No. 215,753. Gorham, C. F., Acting Secretary. Mar. 12, 1877. Vol. 5, p. 55.

(2) "The appellant (an artillery soldier) was acting under orders performing a military duty (washing in a river the gun and caisson carriages to which he was attached), and while engaged in performing that duty he, without orders and without any necessity to do so, dived off his carriage head first in what must have been shallow water and injured his head and neck. The act that caused the injury was a voluntary act on his part, not connected with the duty of washing the gun

LINE OF DUTY—Continued.

and caisson carriages, and he cannot be held to have been in the line of duty when he received the injury."

Kommer, George. No. 246,887. Teller, H. M., Secretary. Oct. 16, 1883. Vol. 11, p. 34.

12. DESERTION.

See DESERTION.

13. FORAGING.**DECISIONS OF THE SECRETARY OF THE INTERIOR.**

(1) Soldier not in, while foraging, unless under orders, even if he has been granted leave to do so.

Wilson, Eunice. App. No. 150,104. Delano, C., Secretary. May 11, 1874. Vol. 3, p. 202.

(2) A soldier and comrade had permission of their captain to forage for turkeys and hogs; while so engaged they were ordered to return to camp by a patrol officer (a sergeant) who had on no insignia to distinguish him as such, and, doubting his authority, the foragers did not obey; they were again hailed by the patrol to stop or he would fire, and the result of the matter was he did fire, and killed the soldier.

In the decision affirming the rejection of the claim on the ground that the soldier was not in the line of duty when killed, the following language is held, viz: "It is not alleged that the foraging or hunting in which the soldier was engaged at the time he was killed was necessary in order to provide for himself or his command. The purpose for which he was absent is not shown, therefore, to have had any connection with the public service, but, on the other hand, it would appear that the hunting was for the soldier's own amusement and pleasure. Moreover, it was his duty to obey the order of the patrol. His refusal to obey was in violation of regulations necessary to the discipline of the Army."

Updegraff, Anna. No. 183,480. Teller, H. M., Secretary. June 26, 1882. Vol. 9, p. 280.

(3) The Adjutant-General's report shows that the claimant was "captured near Victoria, Miss., on or about June 9, 1863, having gone on shore to forage, by permission, but not under orders of his company commander." Claim rejected on the ground that the soldier was not in the line of duty when captured.

In concurring "in the opinion that the evidence is not sufficient to prove that the soldier was absent foraging *by order* of his commanding officer at the time he was captured," the honorable Secretary uses the following language, viz: "In a decision of the Department of May 11, 1874, in the claim No. 150,104, of the mother of John Q. Wilson, in which case it was shown that the soldier was captured while out foraging by permission (in writing) of the captain of his company, it was held that 'when military forces are in an enemy's country, a soldier who leaves the protection of his command, except by order, takes the whole risk upon himself of being captured or of losing his life, and in such a case

LINE OF DUTY—Continued.

the Government cannot be held responsible.' It was further held that the written permission given by the captain could not be regarded as an order to forage; that the foraging was therefore a voluntary act of the soldier, and that he was not in the line of duty when captured under such circumstances."

Smith, Frederick W. No. 142,089. Teller, H. M., Secretary. June 27, 1882. Vol. 9, p. 287.

Above decision subsequently overruled in same case, as follows :

(4) The claimant's company, under the command of its second lieutenant, was on board a transport on the Mississippi River, and landing to obtain fuel, on an application made by some of the sick of the command that "some fresh and palatable food" might be obtained for them, the said second lieutenant gave permission to the claimant and two others to go on shore for that purpose. While so engaged he was captured by the enemy: *Held*, that, "although there was no express order for him to perform this duty," yet, as he "was allowed to go on shore to forage for the sick of the company," the claimant "at the time of his capture was engaged in the performance of a military duty," and "must be regarded as having been in the line of duty and entitled to pension for any disability which may have resulted from his capture."

Smith, Frederick W. No. 142,089. Joelyn, M. L., Acting Secretary. Oct. 25, 1882. Vol. 9, p. 424.

14. FURLOUGH.**Section 4700, Revised Statutes.**

Officers absent on sick leave, and enlisted men absent on sick furlough, or on veteran furlough with the organization to which they belong, shall be regarded in the administration of the pension laws in the same manner as if they were in the field or hospital.

Sec. 6, 3 Mar., 1873; sec. 8, 6 June, 1866.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

(1) A soldier is not in line of duty while on furlough.

Monroe, Matilda J. App. No. 49,357. Usher, J. P., Secretary. Mar. 9, 1865. Vol. 2, p. 178.

(2) If a soldier dies while on furlough, of a disability contracted in line of duty, his widow is entitled to pension.

Look, Harriet A. App. No. 13,328. Harlan, James, Secretary. Oct. 21, 1865. Vol. 2, p. 184.

(3) A soldier is in line of duty while serving during the term of a furlough granted him, after having relinquished the same.

Roberts, Richard D. App. No. 61,369. Harlan, J., Secretary. Aug. 13, 1866. Vol. 1, p. 59.

(4) A soldier who deserts while on furlough is not entitled to pension for any disability he may have contracted before he left his command.

Hulling, Stephen D. App. No. 94,149. Cox, J. D., Secretary. July 1, 1869. Vol. 2, p. 120.

LINE OF DUTY—Continued.

(5) A soldier on veteran-furlough is not considered in line of duty unless he was with his organization.

Rutroff, Elizabeth. App. No. 203,420. Gorham, Charles F., Acting Secretary. Apr. 15, 1876. Vol. 4. p. 274.

(6) Soldiers on individual furlough not considered in line of duty and their widows are not entitled to pension on account of their death from causes originating during such a furlough.

Hoffman, Isabella C., widow of Hoffman, Daniel S. App. No. 83,918. Schurz, C., Secretary. May 3, 1877. Vol. 5, p. 101.

(7) Where soldier re-enlisted, and was granted a veteran furlough with other members of the company, and while on said furlough is captured, and in escaping from imprisonment incurred a disability: *Held*, that the case was not within the provisions of section 4700, Revised Statutes, not being on furlough with the organization to which he belonged.

Maynor, Washington. App. No. 209,954. Schurz, C., Secretary. June 6, 1879. Vol. 6, p. 355.

(8) Where soldier continues absent beyond original furlough, by reason of orders from his captain, who was present also on furlough, can only be considered in line of duty while he was engaged in the performance of the duty specially directed by his captain, and any injury or disease contracted otherwise is fatal to his right to pension.

Hays, John. Schurz, C., Secretary. Feb. 27, 1880. Vol. 7, p. 232.

(9) To entitle a person to pension for a disability received while on furlough, the furlough must have been given for one of the purposes indicated in section 4700 of the Revised Statutes.

Griffith, Thomas. No. 265,036. Kirkwood, S. J., Secretary. Mar. 20, 1882. Vol. 9, p. 142.

(10) While the claimant, Perdue, "was on furlough at Minerva, Ohio, on the 26th of September, 1864, one Francis M. Wareham, who was on duty at that place recruiting for the volunteer service, was attacked by certain persons opposed to the war, and called Perdue to his assistance, and while assisting Wareham, Perdue received certain injuries." *Held*: "That the act of Perdue in assisting Wareham was an act of military duty, and that when a soldier on furlough is called upon to do an act of military duty and by reason of the performance of such duty receives injury or contracts disease, the disability resulting therefrom must be regarded as entitling him to pension in the same manner as if it had been contracted in the line of duty in the field."

Perdue, Wm. R. No. 283,403. Teller, H. M., Secretary. Oct. 20, 1882. Vol. 9, p. 418.

(11) The husband of the claimant "left his company, which was stationed at Paducah, Ky., to go to his home in Illinois, to be present at the birth of a child. On his way back he disappeared from a steamboat at Cairo, Ill. The official records of the company set forth that Barrett (the soldier), was drowned at Cairo, Ill., on the 2d of June, 1862; that it was supposed that he walked off the boat in the night.

LINE OF DUTY—Continued.

"It is alleged that the soldier had a furlough for the purpose of visiting his home.

"The question whether he was on furlough or not is not material in the consideration of the claim of his widow for pension. It is acknowledged that his absence from his company and regiment had no reference to the performance of any military duty. If he was absent on furlough he was out of the line of military duty, for the time being, by permission. If he was absent without permission he was absent in violation of law, and, therefore, not in the line of duty.

"Under all the laws relating to pension it has been held that a soldier absent from the organization to which he belongs, for any purpose not growing out of or connected with the public service, is not in the line of duty.

"Section 4700 of the Revised Statutes provides that 'officers absent on sick leave, and enlisted men absent on sick furlough, or on veteran furlough with the organization to which they belong, shall be regarded in the administration of the pension laws in the same manner as if they were in field or hospital.'

"The law having directed that persons on furlough under certain circumstances shall, in the determination of all questions pertaining to the administration of the pension laws, be regarded as if they were in the field or hospital, it must be understood that under all other circumstances they shall not be so regarded."

Rejection of the claim affirmed.

Barrett, Lucinda. No. 17,031. Teller, H. M., Secretary. Jan. 2, 1883. Vol. 11, p. 121.

15. IMPRISONMENT BECAUSE OF VIOLATION OF MILITARY LAW AND ARMY REGULATIONS.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

(1) Where soldier's disability was contracted while confined in a military prison on a charge of desertion: *Held*, that he was not in line of duty, as the imprisonment was in consequence of his violation of the law.

Reed, Joseph (minors of). App. No. 222,169. Chandler, Z., Secretary. Jan. 6, 1877. Vol. 4, p. 488.

(2) Soldier not in, if accidentally killed while undergoing sentence of court-martial. His widow not entitled.

Davis, Rachel A. No. 227,369. Schurz, C., Secretary. Mar. 15, 1877. Vol. 5, p. 59.

(3) Where claimant was placed under arrest and subsequently imprisoned for absence, without proper authority, beyond the period of furlough: *Held*, that disease incurred during the period of imprisonment was not contracted in line of duty.

Linenger, Peter A. App. No. 80,650. Schurz, C., Secretary. Oct. 21, 1878. Vol. 6, p. 146.

LINE OF DUTY—Continued.

(4) A soldier is not in line of duty, as construed in the administration of the pension law, when absent from his company under sentence of a provost court.

Kearns, Michael. App. No. 173,284. Schurz, C., Secretary. Dec. 5, 1879. Vol. 7, p. 100.

(5) A soldier who dies of disease contracted "while undergoing imprisonment in consequence of having violated military law," cannot be regarded as having died of a disease contracted in the line of duty, and his widow is not entitled to pension.

Barber, Sarah J. No. 213,778. Teller, H. M., Secretary. Sept. 29, 1882. Vol. 9, p. 393.

(6) When a soldier dies of disease contracted while undergoing imprisonment by sentence of court-martial, his widow is not entitled to pension on account of his death, for the reason that its cause did not originate in the line of duty.

It was claimed that the soldier was confined in a damp and unhealthy cell, and that his fatal disease was caused by carelessness or neglect of the officers in charge, and consequently that the Government is responsible for his death, and therefore that his widow is entitled to pension.

The decision on that point is as follows, viz :

"Whether the statement be true that the soldier suffered any unusual hardship while in prison, through neglect or carelessness on the part of any officer of the Government, and whether any responsibility for his death properly attaches to the Government on that account, are questions which have not any bearing upon the right of a widow to pension. The pension law does not provide her a means of obtaining compensation in the nature of damages growing out of this alleged accountability of the Government for the death of the soldier."

Hull, Elizabeth. No. 88,785. Teller, H. M., Secretary. Feb. 19, 1883. Vol. 10, p. 103.

(7) "The evidence in the case shows that claimant, prior to and at the date he was accidentally wounded, was in arrest for a grave breach of military discipline in the face of the enemy at the battle of Cold Harbor, Va., and that, while under arrest, he was accidentally wounded in the arm; that after receiving said wound he was tried by a court-martial, and was sentenced to be dishonorably dismissed from the service, and was dismissed July 25, 1864.

"After careful consideration of the papers in the case, the Department affirms the action of your office for the reason that it is not proved that appellant was in the line of duty when he received the pistol-shot wound in his arm."

Fellows, Albert G. No. 278,787. Joslyn, M. L., Acting Secretary. Aug. 7, 1884. Vol. 11, p. 329.

16. INFANTRY SOLDIERS ACCIDENTALLY WOUNDED BY REVOLVER IN THEIR POSSESSION.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

(1) Infantry soldier not in line of duty if injured by accidental discharge of revolver in his possession.

Davis, Alex. H. App. No. 180,085. Delano, C., Secretary. Apr. 23, 1874. Vol. 3, p. 177.

LINE OF DUTY—Continued.

(2) Infantry soldier not in line of duty, when wounded by the accidental discharge of his own pistol, as the pistol is not a part of the arms of an infantryman.

Compton, Daniel. App. No. 186,723. Schurz, C. Secretary. Apr. 5, 1877. Vol. 5, p. 73.

(3) The claimant, an infantry soldier, with other recruits, arrived about April 16, 1862, at the camp of the regiment for which they were recruited, which was near Lee's Mills, Virginia. It was expected that the Army would soon advance. The recruits were without arms.

The soldier, "while cleaning a revolver, which was his own private property and the only weapon he then had, accidentally discharged it, wounding himself in the left thigh." At the time he received the injury "he was not acting under any order, neither was he acting in violation of any order. He was in the place of duty. The act upon which he was engaged had a probable connection with his duty as a soldier. In the absence of evidence to the contrary, it must be presumed that he exercised ordinary care." *Held*, that the soldier was in the line of duty.

Kinnerson, William T. No. 58,437. Teller, H. M., Secretary. June 20, 1882. Vol. 9, p. 277.

RULING OF THE COMMISSIONER OF PENSIONS.**RULING No. 75. June 22, 1882.**

In compliance with instructions of the honorable Secretary, in case of William T. Kinnerson, No. 58,437, it is held that unless it appear that there were specific orders against carrying pistols, the soldier's right to pension shall not be prejudiced for accidental wounds received therefrom, provided the soldier was otherwise in the line of duty.

17. PERSONAL ALTERCATIONS AND PERSONAL QUARRELS.**RULINGS OF THE COMMISSIONER OF PENSIONS.****RULING No. 81. March 27, 1885.**

Soldiers injured or disabled in personal altercations and personal quarrels cannot be considered as having been in line of duty, and no pension, therefore, will be allowed for such injuries or disabilities. It is held that such soldiers were no more in line of duty than if engaged in a duel.

Smith, David. App. No. 182,216.

RULING No. 127. August 7, 1885.

Where an applicant for pension alleged as the basis for his claim an injury to his right foot received in a friendly scuffle with a bunkmate, now deceased, said allegation being corroborated by the testimony of two sergeants of his company, one of whom claims to have been present when the injury was received: *Held*, that the case is covered by ruling No. 81, in the case of David Smith, app. No. 182,216, dated March 27, 1885, under this title.

Stanley, Joseph W. App. No. 468,694. Order Book, p. 82.

LINE OF DUTY—Continued.

RULING No. 133. *August 29, 1885.*

Where soldier in barracks was assaulted by a comrade and sustained thereby serious injuries, some or all of which produced epilepsy: *Held*, that it is immaterial whether the assault was unprovoked or otherwise, as, in either event, the injury was not due to service in contemplation of law. The Government cannot be held responsible for injuries received during personal quarrels and altercations, which are in no way incident to the performance of military duty.

Harrington, E. M. No. 289,577. Order Book, p. 93.

18. SUICIDE.**DECISIONS OF THE SECRETARY OF THE INTERIOR.**

(1) Suicide of soldier, unless the result of insanity, confers no title to pension on his widow.

Spangy, Catherine. App. No. 101,008. Delano, C., Secretary. Apr. 15, 1873. Vol. 1, p. 339.

(2) Where the claim of a widow is based upon allegation that the soldier was insane when he committed suicide, while in the service, it is not sufficient to show that the soldier was insane, but it must be made to appear that his insanity resulted from causes to which he was subjected in the line of duty.

Berry, Margaret A., widow of Berry, William M. App. No. 121,894. Schurz, C., Secretary. July 26, 1880. Vol. 7, p. 442.

RULING OF THE COMMISSIONER OF PENSIONS.

RULING No. 112. *June 1, 1885.*

Where soldier died from an overdose of opium self-administered: *Held*, that, whether the fatal dose was taken by mistake or during temporary insanity, the claim cannot be admitted upon the theory that, as opium had been prescribed for the soldier, he might easily contract the habit of taking it; that his death was not due to service, and his claim should be rejected.

Mother of A. F. Caldecote. App. No. 313,100.

19. UNDER SECTION 4694, R. S.

SEC. 4694. No person shall be entitled to a pension by reason of wounds or injury received or disease contracted in the service of the United States subsequent to the twenty-seventh day of July, eighteen hundred and sixty-eight, unless the person who was wounded, or injured, or contracted the disease was in the line of duty; and, if in the military service, was at the time actually in the field, or on the march, or at some post, fort, or garrison, or *en route*, by direction of some competent authority, to some post, fort, or garrison; or, if in the naval service, was at the time borne on the books of some ship or other vessel of the United States, at sea or in harbor, actually in commission, or was at some naval

LINE OF DUTY—Continued.

station, or on his way, by direction of competent authority, to the United States, or to some other vessel, or naval station, or hospital.

Sec. 1, Mar. 3, 1873; sec. 2, July 27, 1868.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

(1.) Soldier traveling under orders, in any manner, is "on the march" and in line of duty.

Instructions: Delano, C., Secretary. Jan. 29, 1873. Vol. 1, p. 266.

(2.) Where claimant, stationed in Boston, visiting the forts in the harbor in the performance of duty, subsequent to the rebellion, contracted a disease from which he died: *Held*, that under the provisions of section 4694, Revised Statutes, the disability was contracted in the line of duty.

Burnham, Maria G., widow of Burnham, Arthur H. App. No. 233,379. Schurz, C., Secretary. June 13, 1878. Vol. 5, p. 482.

20. WHEN IT MAY BE PRESUMED.**DECISIONS OF THE SECRETARY OF THE INTERIOR.**

(1) "Where it is proved that an applicant for pension was sound when he entered the service and disabled when discharged, a slight showing of facts is often sufficient to justify the inference that the disability was contracted in the line of duty, provided it is not opposed by anything in the evidence or in the nature of the disability itself."

Moyer, Reuben. No. 394,413. Teller, H. M., Secretary. Apr. 19, 1884. Vol. 11, p. 207.

(2) "When the evidence, as in this case, shows that the soldier was regularly enlisted; was sound and healthy at the time; that he was subsequently discharged for disability, which disability proof shows has continued until the present day, it is sufficient to establish the fact, *prima facie*, that he contracted his disease in the service and in the line of duty, and should be taken as conclusive in the absence of any proof that he was, at the time he contracted the disease, out of the line of duty.

"The disease in this case is not to be treated like a gunshot wound that is at once perceptible, and its time of occurrence easily fixed, but as a defect which usually comes on by slow degrees, and which, at its inception, may not be certainly known even to the soldier himself."

Whitten, Levi C. No. 21,407. (Old War.) Teller, H. M., Secretary. June 27, 1884. Vol. 11, p. 302.

RULING OF THE COMMISSIONER OF PENSIONS.

RULING No. 104. May 19, 1885.

Claim based upon an injury to left ankle and rupture of left side caused by a fall from a horse. Record shows claimant admitted to hospital twelve days after enlistment with "sprain of left ankle." He never rejoined his command. No evidence of any regimental or company offi-

LINE OF DUTY—Continued.

cer or comrade as to the circumstances under which alleged injury was received on file: *Held*, that "line of duty" cannot be presumed upon claimant's statements, uncorroborated by other testimony, and case should be rejected.

Troman, Charles. App. No. 385,972.

ORDER OF THE COMMISSIONER OF PENSIONS.

ORDER No. 107. *January 10, 1885.*

In cases for pensions where disability or death is claimed to be due to a disease reasonably chargeable to the service, if it does not appear that the soldier or sailor was absent when the same was incurred, and there is no evidence adverse to its origin, line of duty will be presumed, provided the existence of the disease is satisfactorily shown in the service, as alleged.

LOYALTY.

See DISLOYALTY.

M.**MARINE CORPS.**

See NAVY.

MARRIAGE.

Act of August 7, 1892.

"SEC. 2. That marriages, except such as are mentioned in section forty-seven hundred and five of the Revised Statutes shall be proven in pension cases to be legal marriages according to the law of the place where the parties resided at the time of marriage or at the time when the right to pension accrued.

* * * * *

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. Of soldier after his enlistment does not deprive his widow of pension in any case.

Butler, Sarah. Ctf. No. 136,817. Delano, C., Secretary. Sept. 19, 1874. Vol. 3, p. 313.

[NOTE.—This decision was made in the case of a colored widow claimant.]

2. Illegal, to soldier cannot be legalized by an act of the legislature passed after his death.

Herron, Emily. App. No. 181,797. Delano, C., Secretary. Sept. 27, 1875. Vol. 4, p. 126.

3. Cohabitation and public acknowledgment as husband and wife constitute legal marriage in Pennsylvania.

Griffin, Martha J. Chandler, Z., Secretary. Nov. 19, 1875. Vol. 4, p. 149. (*Vide* Wilber,

Amanda. No. 295,754. Schurz, C., Secretary. June 15, 1878. Vol. 5, p. 489.)

MARRIAGE—Continued.

4. Validity of, asserted by widow upon oath in suit for divorce on the ground of husband's conviction of felony, estops her denial of the legality in a claim for pension on account of death of soldier to whom she was married previously.

Howe, William (minors). App. No. 222,385. Chandler, Z., Secretary. Dec. 11, 1875. Vol. 4, p. 161.

5. The provisions of section 4705, Revised Statutes, are construed to include a class of persons whose condition during and prior to the rebellion was such that no legal marriage could be had, but do not include the case of parties who are not shown to have lived together as man and wife for more than six years subsequent to the rebellion.

Monroe, Elizabeth, alias Green, Elizabeth, alias Ward, Elizabeth, widow of Monroe, Joseph. App. No. 220,563. Chandler, Z., Secretary. Jan. 15, 1876. Vol. 4, p. 179. Subsequent decision in same case, as follows:

Marriages which are valid at common law and not solemnized in accordance with the statutes will be sustained as valid, unless they are positively declared void by the statutes. Chandler, Z., Secretary. Apr. 24, 1876. Vol. 4, p. 284.

6. Validity of, not affected by non-compliance with the laws of the State as regards to license, publication, &c.

Griawold, Emily. App. No. 159,631. Gorham, Chas. F., Acting Secretary. Oct. 26, 1878. Vol. 4, p. 434.

7. The claimant and the soldier were legally married November 19, 1846, in the State of Illinois, and she obtained a decree of divorce from him in the courts of that State April 10, 1867. Before the decree was obtained they jointly deeded the homestead to a third party, who, in turn, the day after the divorce was obtained, deeded the same to the claimant. This was done by stipulation to secure the homestead to her in her own right. It was also stipulated that the soldier was to occupy the said homestead with the applicant and their children so long as he lived; he "was to eat at the same table, assist in the support of the family, and the family to do his washing; this agreement was faithfully carried out on the part of both parties, and said Van Horn (the soldier) continued to live in said home until the day of his death, died at the home, and was buried from the house." It also appeared that they were recognized by their friends, neighbors, and acquaintances as husband and wife, but the soldier had a room, in which he slept, away from the homestead.

On this state of facts the action of rejecting the claim upon the ground that applicant was not the widow of the soldier was affirmed on appeal, when it was held that the facts as shown in the evidence did not constitute a marriage at common law.

Van Horn, Mary, No. 251,369. Teller, H. M., Secretary. June 14, 1882. Vol. 9, p. 252.

8. The husband of the claimant and father of the soldier died in 1846. In 1850 she intermarried with one William McAllister. In 1858 they separated by mutual consent, without any legal proceedings to annul the marriage, and in April, 1860, a marriage ceremony was performed

MARRIAGE—Continued.

between the claimant and one Patch, with whom she lived until about 1870, when he abandoned her. McAllister in the mean time had died in 1868.

It was decided, on appeal, that the continued cohabitation of the claimant with Patch after the death of McAllister did not constitute a lawful marriage under the laws of the State of Vermont; that her marriage to Patch was absolutely void, and their cohabitation having been unlawful and illicit from the beginning and during the life-time of Mr. McAllister, its character was not changed by its continuance after his death, and did not warrant the presumption of marriage between the parties.

McAllister, Eliza, Ct. No. 202,224. Teller H. M., Secretary. Apr. 22, 1884. Vol. 11, p. 209.

RULINGS OF THE COMMISSIONER OF PENSIONS.**RULING No. 40. May 7, 1878.**

Certified copies of records of marriages and births, and of the dates thereof, will not be accepted as evidence of the facts, unless the dates when such records were made are also stated in the certificates.

RULING No. 85. April 7, 1885.

Claimant (widow) was married to the soldier in the State of Oregon, December 6, 1877. Prior to that time, to wit, December 6, 1869, the soldier was divorced from a former wife in the State of New York. That divorce freed each party from the bonds of matrimony, but the decree provided, under the statute of New York, that "it shall not be lawful for the said defendant to marry again until the said complainant is actually dead." The soldier was the defendant. The question is, whether under that prohibition in the statute and in the decree the marriage in Oregon was legal: *Held*, that penal statutes are by construction restricted to what is done in the territorial limits and jurisdiction of the country enacting them, and of this sort are prohibitions to the guilty party to marry after divorce. However general their terms, they are by interpretation applied only to domestic divorces, and not to those rendered in other states and countries (II Bishop on Marriage and Divorce, sec. 702, and cases therein cited.) * * * "A prohibition to the guilty party in divorce to contract a second marriage is without effect outside of the territorial limits of the prohibiting state (*Ibid.*, sec. 701, citing a large number of cases.)

"And it is held in New York, in spite of this statute, that if a person there divorced goes into another State and marries the marriage is good in New York" (*Ibid.*, sec. 703, and cases cited).

Claimant's marriage to soldier was good, and she is his legal widow.

Widow of R. H. Fowler. App. No. 317,863.

RULING No. 155. December 5, 1885.

Soldier died in October, 1874, leaving a claim for invalid pension pending. He had married in 1869, and subsequently separated from

MARRIAGE—Continued.

his wife, who, in March, 1874, went through the ceremony of marriage with another man, with whom she has lived ever since as his wife. A minor child of the soldier now claims pension in his own right, as well as the accrued pension due under the invalid claim.

The Commissioner *held*, "that when the facts set up in any case bring it within the operation of the rule deduced by Bishop (1 Bishop on Marriage and Divorce, sec. 505,) as governing the instantaneous arising of the marriage relation when a legal impediment thereto has been removed, there is no period of widowhood entitling the former wife of the soldier either to a pension in her own right or to the accrued pension unpaid in the invalid claim. When, in such case, the soldier left a child or children entitled, their pension will commence from the date of the widow's re-marriage, which, under the circumstances named, would be the date of the soldier's death. Such child or children will also be entitled to receive any accrued pension which may be allowed under the invalid claim.

Invalid, No. 166,039. Minors, No. 300,240. Williston Jennison.

See ADULTEROUS COHABITATION, ACT OF AUGUST 7, 1882;
REMARRIAGE; also SERVICE PENSIONS, WAR OF 1812,
pars. 14, 19.

MARRIAGE OF COLORED PERSONS.**Section 4705, Revised Statutes.**

The widows of colored and Indian soldiers and sailors who have died, or shall hereafter die, by reason of wounds or injuries received, or casualty received, or disease contracted, in the military or naval service of the United States, and in the line of duty, shall be entitled to receive the pension provided by law without other evidence of marriage than satisfactory proof that the parties were joined in marriage by some ceremony deemed by them obligatory, or habitually recognized each other as man and wife, and were so recognized by their neighbors, and lived together as such up to the date of enlistment, when such soldier or sailor died in the service, or, if otherwise, to date of death; and the children born of any marriage so proved shall be deemed and held to be lawful children of such soldier or sailor, but this section shall not be applicable to any claims on account of persons who enlist after the third day of March, one thousand eight hundred and seventy-three.

Sec. 11, 3 Mar., 1873; sec. 14, 14 July, 1864; sec. 14, 6 June, 1866; sec. 2, 15 June, 1866; as to "Indians," sec. 11, 3 Mar., 1873.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. A colored soldier died July 1, 1864, and his widow was granted a pension from the date of his death. But an investigation of the case,

MARRIAGE OF COLORED PERSONS—Continued.

by a special agent, developed the fact that the soldier, at the time a slave, cohabited in the State of Virginia, for several years prior to 1857, with one Frances Parker as his wife, and that during that time they had several children. In 1857, this relationship was broken up by his being sold and sent out of the State. In 1863, said Frances commenced to cohabit with one Solomon Saunders as his wife. In 1864, the soldier came to Portsmouth, Va., with his regiment, when he found said Frances and claimed her as his wife. Whereupon, she left Saunders and cohabited, for a time, with the soldier, but soon left him and, again, took up with Saunders, with whom she has lived ever since, and to whom she appears to have been regularly married in 1872. On this state of facts, the name of Frances Parker was dropped from the pension-rolls, for the reason that she was not the lawful widow of the soldier, and the claim of his minor children was rejected for reason that they were not legitimate.

On appeal, the action of dropping the pensioner's name from the roll was approved and the action of rejecting the minors' claim was disapproved. It was held that the act of the legislature of Virginia, passed February 22, 1866, made the marriage of Solomon Saunders and Frances Parker valid and legitimated the children of John Parker and Frances Parker.

Minors of John Parker, No. 207,709. Kirkwood, S. J., Secretary. Nov. 18, 1881. Vol. 8, p. 480.

2. When, in a pension claim of a widow of a colored soldier, it appeared that she and the soldier, while slaves in the State of Mississippi, had lived and cohabited together as husband and wife, but had separated long before his enlistment, and the "cohabitation and recognition" did not continue up to his enlistment, and the conduct of the soldier was such, after such relation had ceased to exist, as to negative any presumption that he deemed the alleged ceremony of marriage obligatory: *Held*, that the claimant could not be recognized as the widow of the soldier within the meaning of section 4705 of the Revised Statutes.

Phila Porterfield, No. 167,515. Kirkwood, S. J., Secretary. Nov. 21, 1881. Vol. 9, p. 1.

MEASLES.**DECISION OF THE SECRETARY OF THE INTERIOR.**

If the disease (measles) developed itself within ten days from date of enlistment, the presumption is strong that it was not contracted in the service and line of duty. The generally accepted medical fact that the disease develops itself or makes its appearance in the form of eruptions in about ten days is accepted.

Johnson, Robert L. App. No. 262,222. Schurz, C., Secretary. Jan. 12, 1880. Vol. 7, p. 160.

MEDICAL CADETS.

See CIVILIANS IN SERVICE OF A QUASI-MILITARY CHARACTER,
par. 7.

MEDICAL EXAMINATIONS—Continued.**Section 4777, Revised Statutes.**

The Commissioner of Pensions is empowered to appoint, at his discretion, civil surgeons to make the periodical examinations of pensioners which are or may be required by law, and to examine applicants for pension where he deems an examination by a surgeon appointed by him necessary; and the fee for such examinations, and the requisite certificates thereof, in duplicate, including postage on such as are transmitted to pension agents, shall be two dollars, which shall be paid by the agent for paying pensions in the district within which the pensioner or claimant resides, out of any money appropriated for the payment of pensions, under such regulations as the Commissioner of Pensions may prescribe.

Sec. 35, 3 Mar., 1873; sec. 8, 14 July, 1862; see sec. 8, 4 July, 1864.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. Medical examinations and re-examinations are within the discretion of the Commissioner of Pensions.

Hannah, David. App. No. 149,338. Delano, C., Secretary. Feb. 6, 1871. Vol. 2, p. 204. (*Vide* Swinton, John. Ctf. No. 55,951. Delano, C., Secretary. Sept. 16, 1875. Vol. 4, p. 118.)

2. A claimant's refusal to comply with order for his examination by examining surgeon is sufficient ground for the rejection of his claim.

Casey, William. File No. 8,957. Chandler, Z., Secretary. Apr. 18, 1876. Vol. 4, p. 277.

3. The provision of section 8, act of July 4, 1864, for medical examinations by "a board of three duly appointed examining surgeons," had reference only to pensioners, and not to applicants for pension; and when any applicant for pension had been examined, as in this case, by such board prior to the passage of the act of March 3, 1873, the thirty-seventh section of which extended such provision to "applicants for pension," it was held, on appeal, that "the action of the board of examiners on this claim cannot be recognized as concluding the claimant's right to further action in regard to his claim."

Thomas, George W. No. 142,806. Teller, H. M., Secretary. Mar. 20, 1883. Vol. 10, p. 192.

4. In the administration of the pension laws, all the Government has a right to require of an applicant for pension is that he shall establish the claim "by a preponderance of evidence." * * *

"The practice of submitting the claimant to the examination of a board of surgeons, one of whom has expressed an opinion on the merits of the claimant's claim and decided he was not entitled to pension, I consider objectionable. I do not think the claimant should be compelled to submit to an examination before a board already committed against his claim, and in all cases where it is desirable to have a second examination, such examination should be submitted to a board composed of other and different persons."

Spears, Horace S. No. 223,129. Teller, H. M., Secretary. Nov. 26, 1883. Vol. 11, p. 80.

MEDICAL EXAMINATIONS—Continued.**ORDERS OF THE COMMISSIONER OF PENSIONS.****ORDER No. 6. February 14, 1870.**

In the adjustment of invalid claims, where the medical examination has been made within one year from date of final action, further examination will be ordered only when deemed necessary by the Medical Referee.

ORDER No. 37. January 22, 1876.

That the office may have the benefit of the opinion of more than one surgeon or board of surgeons in any claim for increase of pension, the claimant, when practicable, will be ordered for special examination before some surgeon or board of surgeons other than the one by whom he was examined at the last examination.

ORDER No. 55. May 27, 1880.

No pension claimant will hereafter be examined by the Medical Referee, nor by any surgeon or board in the Pension Office, except upon the written order of of the Commissioner, deputy commissioner, or chief clerk.

ORDER No. 75. February 4, 1882.

When an invalid claimant alleges a specific wound or injury, that has probably left a well-marked scar, received at a given time and place, and his allegations are supported by the record, but the location of the injury is not given therein, the examining surgeon shall be ordered to examine the applicant for the injury, and also for any and all other physical signs of wounds or injuries. In cases of disease, the examination shall be had for the alleged disease and for any other physical signs of disease; and in all cases the examining surgeon shall be ordered to give a full and specific description of all injuries or physical signs of disease that are found.

ORDER No. 80. April 26, 1882.

In all cases where report of a medical examination shows no disability, and other evidence tends to show that the disability actually exists, the claimant shall receive another examination by a board of surgeons, if practicable, or another surgeon, with specific instructions, setting forth the facts in the case; and where this examination shows no disability, no rating of pension shall be allowed to continue after the date of such report unless so ordered in writing by the Commissioner or one of the deputy commissioners.

ORDER No. 114. May 15, 1885.

Upon the representation to the Commissioner by the chief of the Board of Review and the Medical Referee that the operation of order No. 80 is such as greatly to delay and embarrass the business of the

MEDICAL EVIDENCE.*See EVIDENCE, MEDICAL.***MEDICAL EXAMINATIONS.**

Sections 4771, 4772, and 4773, Revised Statutes, repealed by section 3 of act of June 21, 1879, as follows:

"That sections forty-seven hundred and seventy-one, forty-seven hundred and seventy-two, and forty-seven hundred and seventy-three of the Revised Statutes of the United States, providing for biennial examinations of pensioners, are hereby repealed: *Provided*, That the Commissioner of Pensions shall have the same power as heretofore to order special examinations, whenever, in his judgment, the same may be necessary, and to increase or reduce the pension according to right and justice; but in no case shall a pension be withdrawn or reduced except upon notice to the pensioner and a hearing upon sworn testimony, except as to the certificate of the examining surgeon."

* * * * *

Section 4774, Revised Statutes, superseded by section 4 of act of July 25, 1882, as follows:

SEC. 4. That the Commissioner of Pensions is hereby authorized to appoint surgeons who, under his control and direction, shall make such examination of pensioners and claimants for pension or increased pension as he shall require; and he shall organize boards of surgeons, to consist of three members each, at such points in each State as he shall deem necessary, and all examinations, so far as practicable, shall be made by the boards, and no examination shall be made by one surgeon excepting under such circumstances as make it impracticable for a claimant to present himself before a board: *Provided*, That the Commissioner may, when in his opinion the exigencies of the service require it, organize a board of three surgeons, who, under his direction, shall review the work of any regularly appointed board or surgeon: *Provided further*, That all examinations shall be thorough and searching, and the certificate contain a full description of the physical condition of the claimant at the time, which shall include all the physical and rational signs and a statement of all structural changes.

The fee for each examination, and satisfactory certificate thereof, shall be two dollars to each member when made by a board, and two dollars when made by one surgeon: *Provided*, That when a claimant is so disabled as not to be able to present himself to a board of surgeons for examination, the Commissioner may order a surgeon to make the examination at the claimant's residence; and the fee for such examination shall be two dollars, in addition to the payment of the actual traveling expenses of the surgeon: *Provided further*, That no fee shall be allowed or paid to any member of such board of examining surgeons who does

MEDICAL EXAMINATIONS—Continued.

not actually participate in such examination and sign the certificate thereof.

The Commissioner may, when in his judgment the degree of disability cannot be determined truthfully or satisfactorily excepting by expert examination, employ an expert, not a regularly appointed surgeon, to make the examination; and the fee for such examination shall be five dollars: *Provided*, That the fee for an expert examination shall not be paid to any regularly-appointed examining surgeon.

The fee for the examination of claimants who reside out of the United States shall not exceed ten dollars, which shall be paid, upon the presentation of satisfactory vouchers, out of the appropriation for the payment of the examining surgeons, and through the United States consulate nearest to the claimant's place of residence.

Sec. 36, 3 Mar., 1873; sec. 8, 4 July, 1864. For original section see addenda. See amendment by act 3 Mar., 1885.

Amended by act of March 3, 1885, as follows:

"And each member of each examining board shall, as now authorized by law, receive the sum of two dollars for the examination of each applicant, whenever five or a less number shall be examined on any one day, and one dollar for the examination of each additional applicant on such day: *Provided*, That if twenty or more applicants appear on one day, no fewer than twenty shall, if practicable, be examined on said day, and that if fewer examinations be then made, twenty or more having appeared, then there shall be paid for the first examinations made on the next examination day the fee of one dollar only until twenty examinations shall have been made."

Section 4775, Revised Statutes.

Examining surgeons duly appointed by the Commissioner of Pensions, and such other qualified surgeons as may be employed in the Pension Office, may be required by him, from time to time, as he deems for the interest of the Government, to make special examinations of pensioners, or applicants for pension, and such examinations shall have precedence over previous examinations, whether special or biennial; but when injustice is alleged to have been done by an examination so ordered, the Commissioner of Pensions may, at his discretion, select a board of three duly appointed examining surgeons, who shall meet at a place to be designated by him, and shall review such cases as may be ordered before them on appeal from any special examination, and the decision of such board shall be final on the question so submitted thereto, provided the Commissioner approve the same. The compensation of each of such surgeons shall be three dollars, and shall be paid out of any appropriations made for the payment of pensions, in the same manner as the ordinary fees of appointed surgeons are or may be authorized to be paid.

Sec. 37, 3 Mar., 1873.

MEDICAL EXAMINATIONS—Continued.**Section 4777, Revised Statutes.**

The Commissioner of Pensions is empowered to appoint, at his discretion, civil surgeons to make the periodical examinations of pensioners which are or may be required by law, and to examine applicants for pension where he deems an examination by a surgeon appointed by him necessary; and the fee for such examinations, and the requisite certificates thereof, in duplicate, including postage on such as are transmitted to pension agents, shall be two dollars, which shall be paid by the agent for paying pensions in the district within which the pensioner or claimant resides, out of any money appropriated for the payment of pensions, under such regulations as the Commissioner of Pensions may prescribe.

Sec. 35, 3 Mar., 1873; sec. 8, 14 July, 1862; see sec. 8, 4 July, 1864.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. Medical examinations and re-examinations are within the discretion of the Commissioner of Pensions.

Hannah, David. App. No. 149,338. Delano, C., Secretary. Feb. 6, 1871. Vol. 2, p. 204. (Vide Swinton, John. Ctf. No. 55,951. Delano, C., Secretary. Sept. 16, 1875. Vol. 4, p. 118.)

2. A claimant's refusal to comply with order for his examination by examining surgeon is sufficient ground for the rejection of his claim.

Casey, William. File No. 8,957. Chandler, Z., Secretary. Apr. 18, 1876. Vol. 4, p. 277.

3. The provision of section 8, act of July 4, 1864, for medical examinations by "a board of three duly appointed examining surgeons," had reference only to pensioners, and not to applicants for pension; and when any applicant for pension had been examined, as in this case, by such board prior to the passage of the act of March 3, 1873, the thirty-seventh section of which extended such provision to "applicants for pension," it was held, on appeal, that "the action of the board of examiners on this claim cannot be recognized as concluding the claimant's right to further action in regard to his claim."

Thomas, George W. No. 142,806. Teller, H. M., Secretary. Mar. 20, 1883. Vol. 10, p. 192.

4. In the administration of the pension laws, all the Government has a right to require of an applicant for pension is that he shall establish the claim "by a preponderance of evidence." * * *

"The practice of submitting the claimant to the examination of a board of surgeons, one of whom has expressed an opinion on the merits of the claimant's claim and decided he was not entitled to pension, I consider objectionable. I do not think the claimant should be compelled to submit to an examination before a board already committed against his claim, and in all cases where it is desirable to have a second examination, such examination should be submitted to a board composed of other and different persons."

Spear, Horace S. No. 223,129. Teller, H. M., Secretary. Nov. 26, 1883. Vol. 11, p. 80.

MEDICAL EXAMINATIONS—Continued.**ORDERS OF THE COMMISSIONER OF PENSIONS.****ORDER No. 6. February 14, 1870.**

In the adjustment of invalid claims, where the medical examination has been made within one year from date of final action, further examination will be ordered only when deemed necessary by the Medical Referee.

ORDER No. 37. January 22, 1876.

That the office may have the benefit of the opinion of more than one surgeon or board of surgeons in any claim for increase of pension, the claimant, when practicable, will be ordered for special examination before some surgeon or board of surgeons other than the one by whom he was examined at the last examination.

ORDER No. 55. May 27, 1880.

No pension claimant will hereafter be examined by the Medical Referee, nor by any surgeon or board in the Pension Office, except upon the written order of of the Commissioner, deputy commissioner, or chief clerk.

ORDER No. 75. February 4, 1882.

When an invalid claimant alleges a specific wound or injury, that has probably left a well-marked scar, received at a given time and place, and his allegations are supported by the record, but the location of the injury is not given therein, the examining surgeon shall be ordered to examine the applicant for the injury, and also for any and all other physical signs of wounds or injuries. In cases of disease, the examination shall be had for the alleged disease and for any other physical signs of disease; and in all cases the examining surgeon shall be ordered to give a full and specific description of all injuries or physical signs of disease that are found.

ORDER No. 80. April 26, 1882.

In all cases where report of a medical examination shows no disability, and other evidencetends to show that the disability actually exists, the claimant shall receive another examination by a board of surgeons, if practicable, or another surgeon, with specific instructions, setting forth the facts in the case; and where this examination shows no disability, no rating of pension shall be allowed to continue after the date of such report unless so ordered in writing by the Commissioner or one of the deputy commissioners.

ORDER No. 114. May 15, 1885.

Upon the representation to the Commissioner by the chief of the Board of Review and the Medical Referee that the operation of order No. 80 is such as greatly to delay and embarrass the business of the

MEDICAL EXAMINATIONS—Continued.

office, and it further appearing that all the rights of claimants designed to be secured thereunder can be secured by other lawful methods which will not interfere with the progress of business in the office, it is hereby directed that said order No. 80 be abrogated and held to be of no effect.

MEDICAL REFEREE.**Section 4776, Revised Statutes.**

The Secretary of the Interior is authorized to appoint a duly qualified surgeon as medical referee, who, under the control and direction of the Commissioner of Pensions, shall have charge of the examination and revision of the reports of examining surgeons and such other duties touching medical and surgical questions in the Pension Office as the interests of the service may demand; and his salary shall be two thousand five hundred dollars per annum.

* * * * *

Sec. 38, 3 Mar., 1873.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. Opinion of, on medical questions should accompany reports on appeals.

Instructions: Delano, C., Secretary. Dec. 9, 1872. Vol. 1, pp. 225, 228. (See *Appeals*, par. 8.)

2. Should pass upon claims involving medical questions before final adjudication.

Godfrey, James F. App. No. 166,720. Delano, C., Secretary. Mar. 13, 1873. Vol. 1, pp. 225, 311.

3. Opinions of, when called for by Department must remain with report on file.

Sanderson, John. W. Ctf. No. 1,950. Delano, C., Secretary. June 3, 1874. Vol. 3, p. 225.

4. Opinion of, on purely medical questions, should as a rule be accepted as decisive, but in no case to be regarded as final. His action upon questions coming exclusively within the province of his duties are subject only, like that of other subordinates, to revision by the chief of the Bureau.

Green, G. W. Ctf. No. 133,052. Chandler, Z., Secretary. Apr. 5, 1876. Vol. 4, p. 259.

See RULING No. 131, UNDER HEAD OF DISABILITY.

MEXICAN WAR.

See OLD WARS.

MILITIA, MISSOURI.

See MISSOURI MILITIA.

MILITIA OF BROWN COUNTY, MINNESOTA.

See SIOUX INDIAN MASSACRE AT NEW ULM, MINN., IN 1862.

MINORS.**Section 4702, Revised Statutes.**

If any person embraced within the provisions of section forty-six hundred and ninety-two and forty-six hundred and ninety-three has died since the fourth day of March, eighteen hundred and sixty-one, or hereafter dies by reason of any wound, injury, or disease, which, under the conditions and limitations of such sections, would have entitled him to an invalid pension had he been disabled, his widow, or if there be no widow, or in case of her death, without payment to her of any part of the pension hereinafter mentioned, his child or children, under sixteen years of age, shall be entitled to receive the same pension as the husband or father would have been entitled to had he been totally disabled, to commence from the death of the husband or father, to continue to the widow during her widowhood, and to his child or children until they severally attain the age of sixteen years, and no longer; and, if the widow remarry, the child or children shall be entitled from the date of remarriage.

Sec. 8, 3 Mar., 1873; sec. 2, 14 July, 1862; sec. 11, 14 July, 1862; sec. 4, 3 Mar., 1865; sec. 2, act 3 Mar., 1879.

Amended by act approved August 7, 1882, by adding the following:

"Except when such widow has continued to draw the pension money after her remarriage, in contravention of law, and such child or children have resided with and been supported by her, their pension will commence at the date to which the widow was last paid."

Section 4703, Revised Statutes.

The pensions of widows shall be increased from and after the twenty-fifth day of July, eighteen hundred and sixty-six, at the rate of two dollars per month for each child under the age of sixteen years of the husband on account of whose death the claim has been, or shall be, granted. And in every case in which the deceased husband has left, or shall leave, no widow, or where his widow has died or married again, or where she has been deprived of her pension under the provisions of the pension law, the pension granted to such child or children shall be increased to the same amount per month that would be allowed under the foregoing provisions to the widow, if living and entitled to a pension: *Provided*, That the additional pension herein granted to the widow on account of the child or children of the husband by a former wife shall be paid to her only for such period of her widowhood as she has been, or shall be, charged with the maintenance of such child or children; for any period during which she has not been, or she shall not

MINORS—Continued.

be, so charged, it shall be granted and paid to the guardian of such child or children: *Provided, further*, That a widow or guardian to whom increase of pension has been, or shall hereafter be, granted on account of minor children shall not be deprived thereof by reason of their being maintained in whole or in part at the expense of a State or the public in any educational institution, or in any institution organized for the care of soldiers' orphans.

Sec. 9, 3 Mar., 1873; sec. 2, 25 July, 1866; sec. 4, 27 July, 1868; sec. 5, 27 July, 1868.

Section 4704, Revised Statutes.

In the administration of the pension laws, children born before the marriage of their parents, if acknowledged by the father before or after the marriage, shall be deemed legitimate.

Sec. 10, 3 Mar., 1873.

Section 4706, Revised Statutes.

If any person has died, or shall hereafter die, leaving a widow entitled to a pension by reason of his death, and a child or children under sixteen years of age by such widow, and it shall be duly certified under seal, by any court having probate jurisdiction, that satisfactory evidence has been produced before such court, upon due notice to the widow, that she has abandoned the care of such child or children, or that she is an unsuitable person, by reason of immoral conduct, to have the custody of the same, on presentation of satisfactory evidence thereof to the Commissioner of Pensions, no pension shall be allowed to such widow until such child or children shall have attained the age of sixteen years, any provisions of law to the contrary notwithstanding, and the said child or children shall be pensioned in the same manner, and from the same date, as if no widow had survived such person, and such pension shall be paid to the guardian of such child or children; but if in any case payment of pension shall have been made to the widow, the pension to the child or children shall commence from the date to which her pension has been paid.

Sec. 12, 3 Mar., 1873; sec. 11, 6 June, 1866; sec. 8, 27 July, 1868.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. Legitimacy of, governed by laws of State wherein they were born.

Pinkham, Miss M. J. App. No. 1,426. Browning, O. H., Secretary. June 22, 1867. Vol. 2, p. 23.

2. Are pensionable after sixteen years old if application allows prior commencement.

Hawksley, James H. App. No. 78,861. Browning, O. H., Secretary. Feb. 4, 1869. Vol. 2, p. 93.

3. If sole heirs, and over sixteen at time of application, are entitled to arrears only; if under sixteen, to future pension, but not to arrears.

Thompson, C. O. App. No. 125,804. Cox, J. D., Secretary. May 4, 1869. Vol. 2, p. 105.

MINORS—Continued.

4. No law excepting one of the minors left by a soldier.

Rue, Thomas. Ctf. No. 135,275. Cox, J. D., Secretary. Nov. 29, 1869. Vol. 2, p. 143.

5. Have no title to arrears of pension if soldier never applied therefor.

Courser, William. App. No. 134,301. Cox, J. D., Secretary. Apr. 15, 1870. Vol. 2, p. 198.

6. If certificate issues and minor dies before payment no one entitled.

James, Mary. Ctf. No. 136,045. Cox, J. D., Secretary. May 19, 1870. Vol. 1, p. 83.

7. No increase due, if widow never applied therefor until after her remarriage.

Free, Maria. Ctf. No. 51,284. Delano, C., Secretary. Oct. 21, 1870. Vol. 1, p. 91.

8. Pension to minors cannot be paid to different guardians.

Schold, Joseph, minors of. App. No. 171,769. Delano, C., Secretary. Jan. 18, 1872. Vol. 1, p. 141.

9. Pension to, should not be withheld because of overpayment to widow.

Roth, Louis. App. No. 200,106. Delano, C., Secretary. May 5, 1873. Vol. 1, p. 362.

10. Death of, before filing of application, bars guardian's claim for reimbursement of expenses of last sickness and burial of his wards.

Howard, John H. App. No. 204,016. Delano, C., Secretary. Oct. 9, 1873. Vol. 3, p. 87.

11. Pension to, may be withheld, if guardian so requests, because of overpayment to widow.

Sachs, Catharine. Ctf. No. 92,789. Delano, C., Secretary. Feb. 28, 1874. Vol. 3, p. 115.

12. Do not become entitled in their own right until widow remarries, dies, or abandons them.

O'Brien, Michael. Ctf. No. 143,467. Delano, C., Secretary. Apr. 23, 1875. Vol. 4, p. 15.

13. A widow was pensioned with increase on account of minor children. Upon information received by the Pension Office her pension was suspended upon the ground that by reason of immoral conduct she was an unfit person to have the care and custody of said children. A guardian was appointed for the minors, but before his application for pension in their behalf was filed the widow was adjudged insane. It was then discovered that her immoral conduct was the result of insanity. The pension was thereupon restored to her. Upon appeal it was held, no guardian having been appointed for the widow, that the entire pension should be suspended until such appointment should be made, when said guardian could draw the entire amount of the pension, reserving the proportion thereof due the widow for her use and benefit, and pay the balance to the guardian of the minors for their use and benefit.

Beier, Adam. App. No. 216,650. Chandler, Z., Secretary. Dec. 7, 1875. Vol. 4, p. 156.

14. Cease to be such in the sense contemplated by the pension laws when they arrive at the age of sixteen years.

May make application for pension, without the intervention of a guardian, after they become sixteen years of age.

MINORS—Continued.

Pension to, will be withheld during the time it was paid to the widow, although remarried, provided the minor had the benefit of the pension money.

Nyland, C. E. App. No. 222,226. Chandler, Z., Secretary. Apr. 12, 1876. Vol. 4, p. 269.

15. Section 4702, Revised Statutes is construed by the Department to relate only to children born in lawful wedlock, while section 4704 presupposes a legal marriage of the parents.

Rose, Radolph, minors of. App. No. 229,709. Schurz, C., Secretary. Nov. 11, 1879. Vol. 7, p. 59.

16. When children, under sixteen years, of a deceased soldier, are entitled to pension, and one or more of them dies, "the pension in its entirety survives and will be paid to the survivor."

The whole pension "is given to the offspring of the father (the soldier) as a class. If there is more than one child, they have a joint estate (so to speak) in the pension. The statute (sec. 4702) disposes of the whole. No part of it reverts or falls back to the Government until the last child arrives at the age of sixteen years or until his death before reaching that age."

Boone, Alexander, minors of. Ctf. No. 182,930. Opinion of Attorney-General. Apr. 28, 1882. Teller, H. M., Secretary. May 11, 1882. Vol. 9, pp. 186 and 191.

17. COMMENCEMENT OF PENSIONS TO.

(1) Pension to minors, under section 11, act of June 6, 1866, should never commence prior to that date.

Conradt, John H. No. 95,810. Browning, O. H., Secretary. Sept. 17, 1867. Vol. 2, p. 33.

(2) Entitled from soldier's death, if widow remarried without drawing any pension.

Jones, Catherine. No. 95,248. Delano, C., Secretary. Oct. 21, 1870. Vol. 1, p. 91.

Vide case of the minors of C. O. Thompson. Vol. 1, p. 68. Minors over sixteen years of age, if sole heirs, are entitled to arrears, but not to future pension. If under sixteen years of age, they are entitled to future pension but not to arrears.

(3) Where widow's application was filed January 20, 1866, and prior to its allowance, January 25, 1867, she remarried, and on the 10th day of June, 1867, application was made in behalf of minor: *Held*, that allowance of minor's claim to commence from the date of the soldier's death was proper, and that widow is not entitled to pension between the date of soldier's death and the date of her remarriage, as the claim was adjudicated in accordance with the laws in force at the date of its adjudication. (See section 2, act of July 14, 1862; section 4, act of March 3, 1865; section 6, act of July 25, 1866, and section 10, act of July 27, 1868.)

Watson, Martha, widow of Watson, George. App. No. 128,574. Bell, A., Acting Secretary. Sept. 10, 1880. Vol. 7, p. 486.

(4) The soldier died September 29, 1867, leaving a widow and two children under sixteen years of age. The widow remarried October

MINORS—Continued.

29, 1873, and is still living, and has never applied for pension. Pension to the minors was granted from the date of their mother's remarriage.

It being claimed, on appeal, that, inasmuch as the widow failed to claim "the pension which she might have had for the period between the date of the soldier's death and that of her remarriage, the children are entitled for the period named," it was decided that "the children's right accrued only when that of the widow terminated, viz, at the date of her remarriage; and they make no claim based on any right which she may have had."

Shumard, George G. H., minors of. Ctf. No. 197,637. Teller, H. M., Secretary. Mar. 9, 1883. Vol. 10, p. 157.

(5) 1. When a widow and a child under sixteen years of age survive the soldier, and the widow dies after the child has reached the age of sixteen without having remarried, and without having been paid any part of the pension, the child is entitled to pension from the date of the soldier's death until he becomes sixteen years old.

2. When a widow remarries and then dies, without having received a pension, leaving a child by the soldier under sixteen years of age at the date of her death, the pension to the child will commence from the soldier's death.

3. Where a widow and a child under sixteen years of age survive the soldier, and the widow remarries after the child has reached that age, and then dies without having been paid any part of the pension, the child is entitled from the soldier's death until he arrives at the age of sixteen years.

Instructions: H. M. Teller, Secretary. Mar. 3, 1885. Vol. 11, p. 442.

18. MINORS' RIGHT OR TITLE TO PENSION.

(1) Soldier died June 18, 1864, leaving a widow and one child under the age of sixteen years at that time. The widow remarried January 17, 1876, at which time the minor child was over sixteen years of age, and died January 24, 1877, without ever having made application for pension.

The minor's claim was rejected "on the ground that the claimant was over sixteen years of age before the remarriage and death of the widow. No right having accrued until the child was over sixteen years of age, by reason of the intervention of the right of the widow, and the child having lost her right, it cannot avail her after the remarriage or death of the widow."

In his decision affirming this action the honorable Secretary uses the following language, viz :

"In support of the appeal my attention is invited to section 4709 (last clause) of the Revised Statutes, and to decisions rendered in the

MINORS—Continued.

claims of C. O. Thompson and Catharine Jones, dated, respectively, May 4, 1869, and October 21, 1870.

"In regard to the section of law referred to, and the opinion in the claim of C. O. Thompson, I would say that they have no applicability to the case now under consideration. There is no question of limitation here involved.

"The decision in the case of Catharine Jones was proper at the time it was made, and if the law had remained unchanged would govern in the settlement of the claim of Mrs. Miller.

"The law, however, as it stood at the date of that decision, was essentially modified by the act of March 3, 1873. The law giving title to minor children is now comprised in section 4702, Revised Statutes, the last clause of which reads as follows: 'If the widow remarry, the child or children shall be entitled from the date of remarriage.'

"Under that section the appellant has no title to pension for any period preceding January 17, 1876, the date of the mother's remarriage. But as she was at that date over sixteen years of age, it is evident that there is no period of time for which she is entitled to pension."

Poole, James N., minor of. No. 308,886. Teller, H. M., Secretary. May 24, 1884. Vol. 11, p. 268.

(2) Soldier enlisted October 4, 1861, and was discharged December 21, 1863. He made no claim to pension during his lifetime, and died April 29, 1864. The widow's claim was filed June 17, 1870, and allowed at \$8 per month commencing December 1, 1870, the date of filing the last piece of evidence essential to the completion of the claim, with an increase of \$2 per month for each of five children under sixteen years of age at the date of the soldier's death. This pension was paid the widow up to and including September 3, 1879. She applied for arrears under the acts of January 25 and March 3, 1879, but died October 12, 1879, before receiving any payment thereof.

The claim for pension of the oldest minor child filed September 12, 1883, was rejected on the ground that she had no title for the reason that she had attained the age of sixteen years prior to the death of her mother, the widow of the soldier.

In the decision affirming the action of rejection, the following language is used, viz:

"The condition here prescribed (in section 4702, R. S.) under which a minor may acquire title to pension from the date of the soldier's death are two: (1) If there is no widow; (2) If there is a widow, then in case of her death *without payment to her of any part of the pension*.

"Neither of these conditions are found in the case of Mrs. Selbe. There was a widow; she did not die without payment to her of a part of the pension due her. It is clear, I think, that under these circumstances the minor has no title in the law to pension for any period antecedent to the death of the widow, and she is certainly not entitled for

MINORS—Continued.

any period after that event, as she had then attained the age of sixteen, at which pension, if allowed, must terminate. For the same reason she is not entitled, under section 4718, to the accrued pension of the widow."

Selbe, Mary E., minor of Lewis Smalley. No. 308,794. Teller, H. M., Secretary. June 4, 1884. Vol. 11, p. 279.

19. OF COLORED SOLDIERS.

See SECTION 4705, REVISED STATUTES, UNDER HEAD OF MARRIAGE OF COLORED PERSONS.

DECISION OF THE SECRETARY OF THE INTERIOR.

Minors of colored soldiers are entitled to pension, although the mother died prior to soldiers' enlistment.

Minors of Samuel Statesman. App. No. 206,001. Delano, C., Secretary. Feb. 17, 1875. Vol. 2, p. 462.

RULINGS OF THE COMMISSIONER OF PENSIONS.

RULING No. 41. *October 2, 1866.*

The additional pension to widow, on account of minor children, shall terminate to each minor the day preceding its sixteenth birthday.

RULING No. 42. *October 2, 1866.*

Pension to minors should, when the mother's claim has been allowed, begin on the day after the death or remarriage of the mother, and terminate to each minor on the day preceding its sixteenth birthday.

RULING No. 43. *December 7, 1870.*

Where the widow has drawn pension on a certificate issued subsequent to her remarriage, the minor's pension cannot commence at a date prior to that of her remarriage.

RULING No. 44. *December 20, 1871.*

Positive evidence of age of minors is indispensable to allowance of claim for pension in behalf of said minors.

RULING No. 50. *August 31, 1881.*

The total rate of original pension provided by law for minor brothers and sisters, and for minor children, shall, like the pension provided for widows, dependent mothers or fathers, be treated as an entirety; and when two or more minor children or brothers and sisters are entitled, and one or more dies, the pension in its entirety survives and will be paid to the survivors. This rule applies to accrued as well as current pension.

The increase of \$2 per month, under act of July 25, 1866, is given in severalty, and does not survive the beneficiary, but accrued pension of this class may be used to pay the expenses of last sickness, &c., of beneficiary, under section 4718, Revised Statutes United States.

MINORS—Continued.

RULING No. 69. *November 17, 1881.*

The Commissioner's ruling of August 31, 1881, that the pension of minors entitled jointly shall be treated as an entirety, relates simply to the *allowance*, not to the *payment*, of the pension.

The names and rights of all the beneficiaries are to be embodied in a single certificate (or a duplicate thereof, as heretofore in certain cases), but, when important and practicable, the pension agent may, in accordance with existing practice, be instructed to pay the quotas due the several minors on separate vouchers, or to withhold from any of them their portion, and pay the others.

ORDER OF THE COMMISSIONER OF PENSIONS.

ORDER No. 30. *September 30, 1874.*

When two or more minor children of a deceased soldier are entitled to a pension, a duly executed application by, or in behalf of, any one of them will be accepted as, *pro forma*, a claim for the entire pension, the same as if all the minors had united in the application, and the rights of all may be adjudicated without other formal declaration.

It will not hereafter be incumbent upon the adjudicating division to inquire as to the jurisdiction of the court issuing letters of guardianship, as to sufficiency of bonds, &c., or as to whether there has been a change of guardian since the filing of the claim; but the title of the claimants having been established, the pension certificate will issue, and the pension agent be held, through the certificate and account division, to a strict accountability for the proper payment of the pension, in accordance with special instructions from this office.

MISSOURI HOME GUARDS.

At the outbreak of the late rebellion there was in force the following provision of the act of April 24, 1816:

SEC. 3 *And be it further enacted*, That all laws and regulations, relating to the admission of the officers and soldiers of the regular Army to be placed on the pension roll of the United States, shall, and they are hereby declared to, relate to the officers and soldiers of the militia, whilst in the service of the United States.

The act of July 22, 1861, authorized the President to accept volunteers, not exceeding 500,000, and section 6 provided:

That any volunteer who may be received into the service of the United States under this act, and who may be wounded or otherwise disabled in service, shall be entitled to the benefits which have been or may be conferred on persons disabled in the regular service, and the widow, if there be one, and if not, the legal heirs of such as die, or may be killed in service, in addition to all arrears of pay and allowances, shall receive the sum of one hundred dollars.

Early in 1862 the attention of Congress was called to the fact that certain irregular forces known as Home Guards, not organized as militia or accepted into service by the President under the act of July 22, 1861,

MISSOURI HOME GUARDS—Continued.

had been performing military service in the State of Missouri, during the summer and fall of 1861, in behalf of the General Government, but without pay either from the State or the United States; and the following act was passed :

AN ACT to secure to the officers and men actually employed in the Western Department, or Department of Missouri, their pay, bounty, and pension.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized and required to allow and pay to the officers, non-commissioned officers, musicians, and privates, who have been heretofore actually employed in the military service of the United States, whether mustered into actual service or not, where their services were accepted and actually employed by the generals who have been in command of the Department of the West, or the Department of the Missouri, the pay and bounty as in cases of regular enlistment.

SEC. 2. *And be it further enacted,* That the officers, non-commissioned officers, musicians and privates so employed, who may have been wounded or incapacitated for service, shall be entitled to and receive the pension allowed for such disability: *Provided,* That the length and character of their enlistment and service be such as to entitle them, under existing laws, to such pension.

SEC. 3. *And be it further enacted,* That the heirs of those killed in battle, or of those who may have died from wounds received while so in service, shall be entitled to receive the bounty and pay to which they would have been entitled had they been regularly mustered into service: *Provided,* That the bounty and pay referred to in this act shall not be payable unless their term of enlistment and service be of such duration as to entitle them to receive the same, according to existing laws.

Approved March 25, 1862.

On July 14, 1862, there was enacted a law of more general application, which provided for pensions to "any officer, non-commissioned officer, musician or private of the Army, including regulars, volunteers and militia, or," (certain officers and men employed in the Navy or marine Corps) "who have been since the fourth day of March, eighteen hundred and sixty-one, or shall hereafter be, disabled," &c., and to their widows, minors and other dependent relatives. No other classes of persons were made pensionable until the act of July 4, 1864, section 9 of which provided:

That those persons, not enlisted soldiers in the Army, who volunteered for the time being to serve with any regularly organized military or naval force of the United States, or where persons otherwise volunteered and rendered service in any engagement with rebels or Indians since the fourth day of March, eighteen hundred and sixty-one, shall, if they have been disabled in consequence of wounds received in battle in such temporary service, be entitled to the same benefits of the pension laws as those who have been regularly mustered into the United States service; and the widows or other dependents of any such persons as may have been killed in the temporary service aforesaid shall be entitled to pensions in the same manner as they would have been had such persons been regularly mustered: *Provided,* That no claim under this section shall be valid unless presented and prosecuted to a successful issue within three years from and after the passage of this act.

MISSOURI HOME GUARDS—Continued.

By section 4693 of the Revised Statutes, persons entitled to the benefits of section 4692 (which grants invalid pension for disabilities incurred since March 4, 1861.) are declared to be:

First. Any officer of the Army, including regulars, volunteers, and militia, or any officer in the Navy or Marine Corps, or any enlisted man, however employed, in the military or naval service of the United States, or in its Marine Corps, whether regularly mustered or not. * * *

The second paragraph of this section specifies certain officers and men who served on United States gunboats and war vessels, and the third re-enacts, substantially, section 9 of the act of July 4, 1864, extending its provisions to persons serving for the time being as members of the militia of any State, under orders of an officer of the United States, and fixing July 4, 1874, as the date of limitation.

Section 4722 extends the provisions of the title to the Missouri State Militia and the Provisional Missouri Militia.

In the settlement of Missouri Home Guard pension claims under the laws above recited three questions have arisen:

(1) Whether they are to be adjudicated under the laws in force March 25, 1862; (2) Whether they are governed by the third paragraph of section 4693, and subject to the limitation therein provided; or (3) Whether, inasmuch as the said organizations were recognized by the act of March 25, 1862, as having been actually employed in the military service of the United States, they should be treated as on the same footing with claims of regularly enlisted volunteers with reference to subsequent legislation.

Adjudication of these claims under laws in force March 25, 1862, would differ in some material respects from action under subsequent legislation. The first inquiry above suggested is therefore important.

Section 3 of the act of July 25, 1866, extended the provisions of the act of July 14, 1862, and of the supplementary and amendatory acts, to "pensioners under previous laws," except revolutionary pensioners. Section 13 of the act of July 27, 1868, so construes this section "as to place all pensioners whose right thereto accrued subsequently to the war of the Revolution, and prior to the fourth day of March, eighteen hundred and sixty-one, on the same footing, as to rate of pension, from and after the passage of said act, as those who have been pensioned under acts passed since said fourth day of March, eighteen hundred and sixty-one."

This construction must be taken to limit the prior statute, for in the act of March 3, 1873, which purported "to revise, consolidate, and amend the laws relating to pensions," the corresponding provision was as follows:

SEC. 18. That the provisions of this act in respect to the rates of pension are hereby extended to pensioners whose right to pension accrued under general acts passed since the war of the Revolution and prior to the fourth of March, eighteen hundred

MISSOURI HOME GUARDS—Continued.

and sixty-one, to take effect from and after the twenty-fifth day of July, eighteen hundred and sixty-six; and that the widows of revolutionary soldiers and sailors receiving a less sum shall be paid at the rate of eight dollars per month from and after the twenty-seventh day of July, eighteen hundred and sixty-eight.

This section has been substantially re-enacted as section 4712, Revised Statutes. It thus appears that unless Missouri Home Guard claims came within the act of July 14, 1862, or the ninth section of the act of July 4, 1864, and so under section 4693, Revised Statutes, they have never been taken out from under ante-rebellion laws. But the act of July 14, 1862, and its supplementary and amendatory acts, purport to provide for all cases in which pensionable disability has been incurred since the 4th of March 1861, and must be taken to supersede the act of March 25, 1862, so far as respects title to pension. The claims in question must therefore be adjudicated under either the first or the third paragraph of section 4693, Revised Statutes.

The circumstances under which the Missouri Home Guards were organized and performed service are shown by the following memoranda furnished by the Adjutant-General, United States Army:

To anticipate combinations and measures of hostility against the General Government, Capt. Nathaniel Lyon, commanding Department of the West, was granted the following authority:

WAR DEPARTMENT, April 30, 1861.

Capt. NATHANIEL LYON,
Commanding Department of the West:

SIR: The President of the United States directs that you will enroll in the military service of the United States the loyal citizens of Saint Louis and vicinity, not exceeding, with those heretofore enlisted, ten thousand in number, for the purpose of maintaining the authority of the United States. * * * The additional force hereby authorized shall be discharged, in part or in whole, if enlisted, as soon as it appears to you and the gentlemen above named that there is no danger of an attempt on the part of the enemies of the Government to take military possession of the city of Saint Louis, or put the city in the control of a combination against the Government of the United States, and whilst such additional force remains in the service the same shall be governed by the rules and articles of war, and such special regulations as you may prescribe. I shall like the force heretofore directed to be enrolled to be under your command. The arms and other military stores in the Saint Louis Arsenal not needed for the forces of the United States in Missouri must be removed to Springfield, or some other safe place of deposit in the State of Illinois, as speedily as practicable, by the ordinance officer in charge at Saint Louis.

I am sir, &c.,

L. THOMAS,
Adjutant-General.

This authorization is endorsed as follows:

"It is revolutionary times, and therefore I do not object to the irregularity of this.
"W. S.

"Approved April 30, 1861.

"A. LINCOLN.

"Colonel Thomas will make the order.

"SIMON CAMERON.
"Secretary of War,"

MISSOURI HOME GUARDS—Continued.

General Lyon succeeded to the command of the Department of the West on May 31, 1861, and to meet the emergencies of the hour was authorized as follows :

“WAR DEPARTMENT, June 11, 1861.

“General LYON :

“You are authorized to enlist in the service of the United States such loyal citizens of the State of Missouri as you think proper, who shall not receive pay except when called into active service by this Department. Five thousand additional stand of arms have been ordered to be forwarded to you, for distribution among them.

“SIMON CAMERON,
“*Secretary of War.*”

The bulk of the home guards was raised under this authorization. The force was kept up from one to six months, and in a few instances for a longer period.

June 12, 1861. The Governor of the State (Jackson) issued his proclamation calling for 50,000 Missourians to war upon the United States. Prior to this date, the militia of the State could not be called out, owing to the position taken by the State authorities. Subsequent to it, measures were taken to inaugurate a State government loyal to the United States. The convention of August, 1861, called Hon. H. R. Gamble to the gubernatorial chair, the duties of which he assumed, and on August 24, 1861, issued his proclamation for 42,000 six months' militia.

The number of volunteers in Missouri, and the proclamation referred to, appearing to have rendered the further retention of the home guards unnecessary, applications on the part of some of the organizations were made for muster out and payment.

In reply, General Fremont, who succeeded Lyon, decided, under date of September 7, 1861 :

“The question of pay must be referred to the War Department; the General commanding does not intend to make any decision in the case, it never having been his intention to order the payment of the home guards.”

And on September 11, 1861 :

“General Fremont has decided not to order the Home Guards to be mustered at all either for pay or out of service, as they were never mustered in. They are to seek relief through Congress, as it was understood between them and General Lyon that they expected nothing but arms and subsistence.

“J. H. EATON,
“*Major and Military Secretary.*”

This latter bears the following indorsement:

“The Secretary of War confirmed this verbally to me in strong terms, in his last visit to Saint Louis.

“TIMOTHY P. ANDREWS,
“*Dep. Paymaster-General.*”

Renewed applications were presented to Major-General Halleck (Fremont's successor), who issued the following general orders:

[General Orders No. 25.]

6

“HEADQUARTERS DEPARTMENT OF THE MISSOURI,
“*Saint Louis, December 14, 1861.*

[Extract.]

“3. Home Guards and other irregular organizations mustered in with an authorized limitation as to place of service, or in service without having been mustered in, will

MISSOURI HOME GUARDS—Continued.

be allowed the option to be now regularly mustered in for three years or during the war, according to law and regulations, to cover the full time of back service, so that they can be regularly paid and furnished with supplies, or to be mustered out of service and receive pay only for the period they have done active service in Missouri away from their homes.

"By order of Major-General Halleck,

J. C. KELTON,
"Asst. Adjutant-General."

The provisions of this order do not appear to have been acted upon or put in operation at the time.

Applications for relief were made to Congress during the winter of 1861-'62, and resulted in the act of March 25, 1862, above cited.

The act was not put in operation, however, because the appropriation, \$100,000, made to meet the claims, was deemed inadequate, and besides, the Secretary of War desired the appointment of a commission to examine the claims that might be presented under its provisions. These facts having been communicated to Congress, that body enacted the act of July 12, 1862, which suspended payment under the original act, and instead authorized the appointment of a commission to examine the claims.

The suspending act was as follows :

A RESOLUTION to suspend all payments under the act approved twenty-fifth of March, eighteen hundred and sixty-two, entitled "An act to secure to the officers and men actually employed in the Western Department, or Department of Missouri, their pay, bounty, and pension," and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized and directed to suspend all payments under the act approved twenty-fifth March, eighteen hundred and sixty-two, entitled "An act to secure to the officers and men actually employed in the Western Department, or Department of Missouri, their pay, bounty, and pension," and that there shall be appointed by the President, immediately after the passage of this resolution, by and with the advice and consent of the Senate, three commissioners, to examine all claims arising under the provisions of that act, and report the same with the facts connected therewith, to the Secretary of War; said commissioners to have such compensation for their services as the Secretary of War may consider just and reasonable: *Provided*, That said commissioners shall be required to examine and report within sixty days after the passage of this resolution upon all such claims as may be presented by persons claiming to have been organized or employed in the State of Missouri and to have performed service according to the provisions of the said recited act, whereupon payments shall be made as recommended by said commissioners and as required by said act: *And provided further*, That within ninety days from the passage of this resolution the said commissioners shall examine and report upon all other claims arising under the act aforesaid, when payments shall be made as herein prescribed.

Approved July 12, 1862.

The commission created by this act was appointed March 16, 1863, Hawkins Taylor, esq., being the chairman. It has been commonly styled "The Hawkins Taylor Commission."

Soon after, the commission met at Saint Louis, Mo., entered upon the discharge of their duties, and made their report in September, 1863.

MISSOURI HOME GUARDS—Continued.

It would seem from this report that there were two classes of Home Guards which served in Missouri in 1861.

Class 1, authorized by Lyon, consisted of companies organized for the protection of their respective neighborhoods. The commission has reported of this class:

"Previous to the outbreak, at the suggestion of General Lyon, and for their own protection, many of these companies organized and armed themselves, and patrolled through their respective neighborhoods, watching the movements of the disaffected. After hostilities other companies organized, drilled, and protected their own and neighbors' property and the peace of the country."

The claims of this class were held by the commission as not coming within the proviso of the acts of March 25, 1862, and July 12, 1862, and therefore they did not recognize or certify awards thereon. In other words, as reported by the commission:

"No claim was allowed unless it was strictly for personal service in the military service, and all were not only required to show that they were called out or accepted by proper authority, but performed actual military service in the field."

Class 2 consisted of:

"Organizations regularly called out and which actually served in the field under proper authority and in a regular military capacity."

"Class 2 was recognized by the commission, periods of service determined and certified to, and payments made the officers and members of this class by an Army paymaster, in accordance with the certified records of service as made by the commission."

It thus appears that all Missouri Home Guard organizations which were paid through the Hawkins Taylor commission were accepted into the United States service by competent authority, though in irregular form, and were recognized by a competent tribunal as having been actually engaged in such service. It is therefore held that members of such organizations were "in the military service of the United States" within the meaning of the first paragraph of section 4693, Revised Statutes, and that claims on account of disability or death incurred in such service are upon the same footing as those by and on account of regularly enlisted volunteers. Missouri Home Guard claims in which service is not shown either by the records of the Adjutant-General, U. S. A., or by the report of the Hawkins Taylor commission, should be adjudicated under the third paragraph of the section last cited, and are subject to the limitation therein provided.

DECISION OF THE SECRETARY OF THE INTERIOR.

The officers and members of the German Regiment, Missouri Home Guards, their widows, &c., entitled to pension.

Noack, Charles J. H. No. 242,896. Schurz, C., Secretary. Sept. 29, 1880. Vol. 8 p. 84. (Act of Mar. 25, 1862, first part of section 4693, Revised Statutes.)

MISSOURI MILITIA.**Section 4692, Revised Statutes.**

Every person specified in the several classes enumerated in the following section, who has been, since the fourth day of March, eighteen hundred and sixty-one, or who is hereafter disabled under the conditions therein stated, shall, upon making due proof of the fact, according to such forms and regulations as are or may be provided in pursuance of law, be placed on the list of invalid pensioners of the United States, and be entitled to receive, for a total disability, or a permanent specific disability, such pension as is hereinafter provided in such cases; and for an inferior disability, except in cases of permanent specific disability, for which the rate of pension is expressly provided, an amount proportionate to that provided for total disability; and such pension shall commence as hereinafter provided, and continue during the existence of the disability.

Sec. 1, 3 Mar., 1873; sec. 1, 14 July, 1862.

Section 4693, Revised Statutes.

The persons entitled as beneficiaries under the preceding section are as follows:

Third. Any person not an enlisted soldier in the Army, serving for the time being as a member of the militia of any State, under orders of an officer of the United States, or who volunteered for the time being to serve with any regularly organized military or naval force of the United States, or who otherwise volunteered and rendered service in any engagement with rebels or Indians, disabled in consequence of wounds or injury received in the line of duty in such temporary service. But no claim of a State militiaman, or non-enlisted person, on account of disability from wounds or injury received in battle with rebels or Indians, while temporarily rendering service, shall be valid unless prosecuted to a successful issue prior to the fourth day of July, eighteen hundred and seventy-four.

Section 4722, Revised Statutes.

The provisions of this Title are extended to the officers and privates of the Missouri State militia, and the provisional Missouri militia, disabled by reason of injury received or disease contracted in the line of duty while such militia was co-operating with United States forces, and the widow or children of any such person, dying of injury received or disease contracted under the circumstances herein set forth, shall be entitled to the benefits of this title. But the pensions on account of such militia shall not commence prior to the third day of March, one thousand eight hundred and seventy-three.

Sec. 8, 3 Mar., 1873; see sec. 9, 4 July, 1864; see secs. 1, 2, 26 Mar., 1862.

MISSOURI MILITIA—Continued.**THREE MONTHS' VOLUNTEERS.**

At the breaking out of the war the State government of Missouri, being in sympathy with the secession movement and making no response to the President's proclamation of April 15, 1861, calling for 75,000 troops, on April 30th of that year authority was granted Captain Lyon,* of the United States Army, then in command at the Saint Louis Arsenal, to enroll and arm not more than 10,000 men for the purpose of meeting what was at that time considered only a temporary emergency; and within less than two months, under Captain Lyon's supervision, there had been raised, in Saint Louis alone, a force aggregating 10,730 men, organized into five (5) regiments of "volunteers" and five (5) regiments of a reserve corps, sufficiently described as follows:

† First Regiment Volunteers, Colonel Blair, mustered out June 10, 1862; Second Regiment Volunteers, Colonel Boernstein, mustered out August —, 1861; Third Regiment Volunteers, Colonel Sigel, mustered out September 4, 1861; Fourth Regiment Volunteers, Colonel Schittner, mustered out July 30, 1861; Fifth Regiment Volunteers, Colonel Salomon, mustered out August 26, 1861; First Regiment United States Reserve Corps, Colonel Almsted, mustered out August 30, 1861; Second Regiment United States Reserve Corps, Colonel Kallman, mustered out August 16, 1861; Third Regiment United States Reserve Corps, Colonel McNeil, mustered out August 18, 1861; Fourth Regiment United States Reserve Corps, Colonel Brown, mustered out August 18, 1861; Fifth Regiment United States Reserve Corps, Colonel Stifel, mustered out August 31, 1861.

To this infantry force were attached Backof's Battalion Artillery, mustered out August and September, 1861; Voerster's Pioneer Company, mustered out September 1, 1861, and a company of cavalry (Rifles) lettered A, and mustered out August 26, 1861.

Immediately on the completion of these organizations they were mustered into the United States service,‡ and members thereof and their heirs are entitled to pension under the general law.

Inquiry at the War Department develops the fact that all records of the various regiments, companies, &c., above enumerated are in the custody of the Adjutant-General, United States Army.

SIX MONTHS' MILITIA.

This force was organized in conformity with a proclamation issued by H. R. Gamble, governor of Missouri,§ dated August 24, 1861, calling for 10,000 cavalry and 32,000 infantry, "for the purpose of maintaining

* See Report of the Adjutant-General of Missouri for 1863, pp. 4 and 5.

† Reorganized June 10, 1861, as a three years' regiment.

‡ See Report of the Adjutant-General of Missouri for 1865, pp. 59 to 79.

§ See Report of Adjutant-General of Missouri for 1863, p. 6.

MISSOURI MILITIA—Continued.

the power of the Federal Government" and that of the newly constituted and loyal State authorities. It was mustered out, as a rule, prior to the expiration of its term of service (six months), and has never been classified as a part of the volunteer forces of the United States. Having been purely a State organization, its members possess no title to pension, except under the provisions of paragraph 3, section 4693, Revised Statutes.

The following list is believed to represent with sufficient accuracy the component parts of this militia:

Kimball's regiment (———), mustered out April 2, 1862; Dullmeyer's battalion (Third Regiment), mustered out February — 1862; Simpson's regiment (Fourth Regiment), mustered out February 25, 1862; Fagg's regiment (Fifth Regiment), mustered out February 5, 1862; Cranon's regiment (Sixth Regiment), mustered out February 13, 1862; Richardson's regiment (Seventh (?) Regiment), mustered out December 18, 1861; Albur's battalion (First), mustered out February 13, 1862; Cox's battalion (Second), mustered out March 14, 1862; Joseph's battalion (Third Regiment), mustered out February 11, 1862; Thompson's battalion (Fourth Regiment), mustered out February 11, 1862; Grundy County battalion, mustered out February 2, 1862; Burris' battalion (Sixth Regiment), mustered out March 14, 1862; Harrison County battalion (Seventh Regiment), mustered out March 14, 1862; James' battalion, mustered out March 13, 1862; Mercer County battalion, mustered out March 19, 1862; Washington County battalion, mustered out January 8, 1862; Murdock's Independent Company (?); Turley's Independent Company, mustered out December, 1861; Wayne County Cavalry, mustered out February 20, 1862.

MISSOURI STATE MILITIA.

The organization of this force was begun in December, 1861,* under authority from the War Department, granted November 7, 1861, and known as General Order No. 96.

Prior to June, 1862, there had been put into the field over 13,000 men, which number was reduced to 10,000 (nominally), in accordance with act of Congress, approved July 17, 1862,† and carried into effect by General Order No. 5, dated February 2, 1863, State Headquarters. Under the operation of that order there were enlisted and regularly mustered into the United States service one (1) regiment of infantry, fourteen (14) regiments, two (2) battalions and two (2) companies of cavalry, and one (1) battery of artillery. Disabilities incurred during service and in line of duty by members of any of said organizations are pensionable under the general law. Reference may also be had to section 4722, Revised Statutes, by the terms of which special provision is made for the "*Missouri State Militia*."

* Report of the Adjutant-General of Missouri for 1863, p. 8.

† See Report of Adjutant-General of Missouri for 1863, p. 42.

MISSOURI MILITIA—Continued.**ENROLLED MISSOURI MILITIA.**

This force was brought into existence by Special Order No. 101,* of the governor of Missouri, dated July 22, 1862, calling into service all arms-bearing citizens of the State subject to military duty.† It was, and always remained a purely State organization, but after January, 1863, it was furnished by the United States with forage, subsistence, and transportation when in active service and with clothing, camp and garrison equipage while so employed, and was considered in active service only when called out by the governor or department commander, and only while so retained by the latter.‡

These men seem to have been enrolled for no specified term and were distributed into regiments and numerous "county" battalions, the former being numbered up to and including 89 (although no record nor mention is found of Nos. 14, 15, 18, and 21), and were formally disbanded March 12, 1865, by act of the general assembly of Missouri.

Not a pensionable service under existing law.

PROVISIONAL REGIMENTS, ENROLLED MISSOURI MILITIA.

The condition of affairs in Missouri early in 1863 suggested the expediency of creating "a picked force,"§ to consist of men "who could the most easily be spared from their ordinary avocations, "and whomight, therefore, be held for "more permanent" and effective service than could be expected from ordinary militia organizations.

At that period Missouri was divided into eight military districts, each under the command of a brigadier-general of the enrolled militia, and in a circular letter, dated February 3, 1863, issued from the military headquarters of the State,|| authority and instructions were forwarded to such "district commanders," in pursuance of which eleven regiments were selected, either by detail or enlistment, from the "Enrolled Missouri Militia," which were denominated "provisional regiments," and were kept "in active service continuously as long as the emergency demanded."

The history of each of these regiments, including letter of company, name of captain, and dates of muster-in and muster-out, has been reported to the Pension Office by the Third Auditor of the Treasury, to whom all calls for information in particular cases should be addressed.

By act of March 3, 1873 (section 4722, Revised Statutes) the benefits of the general pension law were extended to the members of the regiments thus organized.

* See Report of Adjutant-General of Missouri for 1863, p. 15.

† *Ibid.*, p. 19.

‡ *Ibid.*, p. 27 (General Order No. 4, January 9, 1863).

§ Report of Adjutant-General of Missouri for 1863, p. 21.

|| See Report of Adjutant-General of Missouri for 1863, p. 22.

MISSOURI MILITIA—Continued.**PROVISIONAL COMPANIES OF ENROLLED MISSOURI MILITIA.**

In General Order No. 107,* dated June 28, 1864, the people of Missouri were "requested" by the department commander "to choose and organize out of the *Enrolled Missouri Militia*" companies of about 100 men each, "selected for courage, energy, and willingness" and to hold themselves always in readiness to meet "the ends of local defense," such companies to be officered, armed, equipped, and paid by the State.

In response to this appeal there were organized, so far as can be gathered from the documentary evidence now available,† some fifty-six companies, many of which were brought into active service and sustained heavy losses, outside of the counties to which they belonged; but what became of them ultimately—whether they were consolidated, mustered out, relieved, disbanded, or simply "went home" (as was the case with many of the original Home Guards) is a question not definitely answered by any references now at the disposal of the compilers. At all events, however, there need be no doubt as to the proper classification of these "provisional companies." They were State troops, differing not at all from the Enrolled Missouri Militia,‡ so far as their military relations with the Government of the United States were concerned, and are *not* included in the provisions of section 4722, Revised Statutes, nor of any Congressional enactment other than paragraph 3, section 4693, Revised Statutes.

The "provisional companies" were called out expressly for local defense and temporary service, whereas the "provisional regiments" were organized for *permanent* and *general* service.

It being in contemplation to muster out the "Missouri State Militia"§ (whose term of service was about to expire), and to disband the "Enrolled Missouri Militia" "in order to the formation of a new and permanent State force," the general assembly of Missouri, by its ordinances of February 10 and April 8, 1865, directed the organization of the "*Missouri Militia*," which within a few months thereafter was so far reconstructed as to aggregate eighty-four regiments, six battalions, and several "independent" companies. In anticipation of these measures, and as a temporary expedient, enrollment for local defense at certain designated points had been authorized under date of January 30, 1865,|| and the companies thus created (numbering, at the maximum, fifty-eight), remained in service at the pleasure of the department commander, the last of them having been disbanded July 6, 1865.

* See Report of Adjutant-General of Missouri for 1864, p. 43.

† See Report of Adjutant-General of Missouri for 1865, p. 629.

‡ *Ibid.*, pp. 5 and 43.

§ Report of Adjutant-General of Missouri for 1865, p. 44.

|| See Report of Adjutant-General of Missouri for 1865, p. 58.

MISSOURI MILITIA—Continued.

All of the troops thus indicated belonged exclusively *and without exception* to the State, and, therefore, are not pensionable under the general law.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. (1) "*Section 4722 of the Revised Statutes* extends the benefits of pension to the officers and privates of the Missouri Militia, disabled by reason of injury received and disease contracted in the line of duty while such militia was co-operating with United States forces, and to the widow and children of any such person, dying of injury received or disease contracted under the circumstances stated."

(2) " * * * "In regard to the records of the military forces to which said section applies, the United States War Department is not charged with any duty, for the reason that such forces were not in the service of the United States, but were in the service of the State of Missouri and were co-operating with the United States forces."

Hargrave, John C. No. 202,763. Kirkwood, S. J., Secretary. Mar. 9, 1882. Vol. 9, p. 128.

2. The Report of the Adjutant-General of the State of Missouri shows that the soldier enlisted in Company A, Fiftieth Regiment of the *Enrolled Missouri Militia*, in August, 1862, and was ordered into active service October 16, 1862, and that he "was killed by the accidental discharge of a gun in the hands of a soldier."

His widow's claim was rejected on the ground that the soldier was not in the military service of the United States, but was a member of a State organization.

In affirming the action of rejection, it was held that "the organization of which the husband of the applicant was a member was not in the service of the United States; neither did it belong to that part of the Missouri militia for which pensions were provided by section 4722 of the Revised Statutes." And it was further held that as the claim was not filed until June 5, 1882, it could not, therefore, "be considered under the provisions of the third paragraph of section 4693, providing pensions for the members of the militia of a State under certain circumstances, for the reason that the benefits of those provisions are restricted to those persons whose right to pension was established prior to the 4th of July, 1874."

Siedentz-in, Mary A. No. 293,452. Teller, H. M., Secretary. Nov. 11, 1883. Vol. 11, p. 40.

3. The appellant filed his claim for pension June 7, 1882, on account of a disability incurred by being thrown from his horse December 20, 1862, while serving as a private in Company I, Seventy-first Regiment, *Enrolled Missouri Militia*. Claim rejected on the ground that the claimant was not an enlisted man in the service of the United States at the time of the alleged injury.

MISSOURI MILITIA—Continued.

In deciding the case on appeal it was *held* that—"The claim is not admissible under the first paragraph of section 4693 of the Revised Statutes for the reason that the applicant was not enlisted in the service of the United States. It is not admissible under the third paragraph of said section for the reason that it was not presented and prosecuted to a successful issue prior to July 4, 1874. It is not admissible under section 4722 of the Revised Statutes for the reason that the provisions of said section do not extend to the Enrolled Missouri Militia. There is no other portion of the law which has any bearing upon the case.

Delany, John W. App. No. 457,175. Teller, H. M., Secretary. Nov. 18, 1884. Vol. 11, p. 384.

4. Member of Provisional Enrolled Missouri Militia not entitled to pension under section 9 of the act of July 4, 1864, unless wounded in battle, and his widow is not entitled under said section unless his death was occasioned by or due to a wound received under like circumstances. (All such claims now barred by the limitation imposed by paragraph 3, section 4693 Revised Statutes.)

Foster, Martha. App. No. 127,175. Cox J. D., Secretary. July 24, 1899. Vol. 2, p. 121.

RULING OF THE COMMISSIONER OF PENSIONS.**RULING No. 45.**

All claims for pension on account of services in the "*Missouri State Militia*" and "*Provisional Enrolled Missouri Militia*" shall be treated as to title, rate, and commencement of pension as on equal footing with claims of persons provided for by paragraph 1, section 4693, Revised Statutes.

The "*Enrolled Missouri Militia*" having been called into the service of the State of Missouri, and commanded by the officers of the United States for the time being in command of the forces of the United States in said State by virtue of an agreement entered into between the President of the United States and the governor of Missouri, shall be held as the militia of a State provided for in paragraph 3, section 4693, Revised Statutes, and pensionable under said paragraph for wounds or injuries received in battle, provided the claim was completed prior to July 4, 1874, or, if pending on that date, is susceptible of admission upon satisfactory record evidence showing the receipt of wound or injury in battle.

Claims on account of services in the "*Missouri Home Guards*" and other irregular organizations, called into the service by the generals commanding the Western Department, or the Department of the Missouri, title to pension for same being established by the provisions of section 2 of the act of March 25, 1862, shall in all respects be treated as claims on account of services in the volunteer forces of the United States, the service to be established by the records in the office of the Third Auditor of the Treasury, or the Paymaster General, U. S. A.

MISSISSIPPI MARINE BRIGADE.

See GUNBOAT, RAM FLEET, AND MISSISSIPPI MARINE BRIGADE.

MOTHERS. (DEPENDENT.)**Section 4707, Revised Statutes.**

If any person embraced within the provisions of sections forty-six hundred and ninety-two and forty-six hundred and ninety-three has died since the fourth day of March, eighteen hundred and sixty-one, or shall hereafter die, by reason of any wound, injury, casualty, or disease, which, under the conditions and limitations of such sections would have entitled him to an invalid pension, and has not left or shall not leave a widow or legitimate child, but has left or shall leave other relative or relatives who were dependent upon him for support in whole or in part at the date of his death, such relative or relatives shall be entitled, in the following order of precedence, to receive the same pension as such person would have been entitled to had he been totally disabled, to commence from the death of such person, namely: First, the mother; secondly, the father; thirdly, orphan brothers and sisters under sixteen years of age, who shall be pensioned jointly: *Provided*, That where orphan children of the same parent have different guardians, or a portion of them only are under guardianship, the share of the joint pension to which each ward shall be entitled shall be paid to the guardian of such ward: *Provided*, That if in any case said person shall have left father and mother who are dependent upon him, then, on the death of the mother, the father shall become entitled to the pension, commencing from and after the death of the mother; and upon the death of the mother and father, or upon the death of the father and the remarriage of the mother, the dependent brothers and sisters under sixteen years of age shall jointly become entitled to such pension until they attain the age of sixteen years, respectively, commencing from the death or remarriage of the party who had the prior right to the pension: *Provided*, That a mother shall be assumed to have been dependent upon her son within the meaning of this section if, at the date of his death, she had no other adequate means of support than the ordinary proceeds of her own manual labor and the contributions of said son or of any other persons not legally bound to aid in her support; and if, by actual contributions, or in any other way, the son had recognized his obligations to aid in support of his mother, or was by law bound to such support, and that a father or a minor brother or sister shall, in like manner and under like conditions be assumed to have been dependent, except that the income which was derived or derivable from his actual or possible manual labor shall be taken into account in estimating a father's means of independent support: *Provided, further*, That the pension allowed to any person on account of his or her dependence, as hereinbe-

MOTHERS. (DEPENDENT.)—Continued.

fore provided, shall not be paid for any period during which it shall not be necessary as a means of adequate subsistence.

Sec. 13, 3 Mar. 1873; secs. 3, 4, 14 July, 1862; sec. 12, 6 June, 1866; sec. 1, 27 July, 1868.

Section 4708, Revised Statutes.

The remarriage of any widow, dependent mother, or dependent sister, entitled to pension, shall not bar her right to such pension to the date of her remarriage, whether an application therefor was filed before or after such marriage; but on the remarriage of any widow, dependent mother, or dependent sister, having a pension, such pension shall cease.

Sec. 14, 3 Mar., 1873; secs. 2, 3, 14 July, 1862; sec. 7, 4 July, 1864; sec. 6, 25 July, 1866; sec. 10, 27 July, 1868.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. Entitled, if dependent, whether husband alive or dead, but forfeits pension by remarriage.

Instructions: Opinion of Bates, E., Attorney-General. Smith, C. B., Secretary. Sept. 16, 1862. Vol. 2, pp. 168, 169.

2. Legitimacy of son is not a material question in mother's claims.

Bush, Johanna. App. No. 2,459. Usher, J. P., Secretary. June 15, 1863. Vol. 1, p. 25.

3. May obtain higher pension for another son of higher rank by surrendering certificate obtained for dependence of a son of lower rank.

Kelly, Susan. Ctf. No. 113,817. Browning, O. H., Secretary. Jan. 23, 1868. Vol. 1, p. 63.

4. Of officers who were commissioned but not mustered into a higher rank, not entitled to pension in that rank.

Crosby, Sarah A. Ctf. No. 153,347. Delano, C., Secretary. July 5, 1872. Vol. 1, p. 348.

5. Evidence of husband's disability for a period during which she could not draw any pension may be waived in claims of mothers.

Shane, Sally W. App. No. 203,428. Delano, C., Secretary. Apr. 3, 1875. Vol. 3, p. 346.

6. Service of son in rebel army does not deprive his mother of pension if granted by special act of Congress. Her identity only need be proven.

Hensley, Ann. Chandler, Z., Secretary. Apr. 7, 1876. Vol. 4, p. 253.

7. Entitled, if dependent, although husband may have been employed as doorkeeper of legislature or as keeper of a poor-house.

Rector, Ann P. App. No. 204,473. Chandler, Z., Secretary. June 8, 1876. Vol. 4, p. 311.

8. A mother cannot be allowed pension for any period prior to son's death, nor can she be allowed arrears of pension where son made no application for pension during his life-time.

See DEPENDENCE (MOTHERS).

N.

NAVY.

[NOTE.—For laws, decisions, and rulings relating generally to Navy pensions for service in the war of the rebellion and since, see Title or Right to Pension, also the various titles of this digest applicable to Army claims of the late war, which apply equally to the Navy, for service rendered subsequent to March 4, 1861.

For Navy Service Pensions, War of 1812, see title *Service Pensions, War of 1812.*]

1. AGENTS.

OPINION OF THE ATTORNEY-GENERAL.

(1) Widows of Navy agents are not entitled to pension under act of June 30, 1834. Navy agents are neither officers, seamen, nor mariners, nor are they in the naval service, within the meaning of the law.

Butler, B. F., Attorney-General. Apr. 7, 1837. *Opinions of Attorneys-General*, vol. 3, p. 196.

2. ARMY AND NAVY ROLLS AND RECORDS, WHERE FOUND.

See ARMY AND NAVY ROLLS AND RECORDS, WHERE FOUND.

3. CLERK, CAPTAIN'S.

DECISION OF THE SECRETARY OF THE INTERIOR.

(1) A captain's clerk in the Navy was ordered home on account of sickness and directed to report to the Navy Department, but on account of ill health was unable to so report prior to his death; his widow was allowed to collect his pay to the date of his death: *Held*, that he was in service to date of death, and that his widow was entitled to pension under the Navy pension laws.

Gorham, Charles F., Acting Secretary. Aug. 24, 1876. Navy file No. 537. Dickinson, Charlotte M., widow of Manco C. Vol. 4, p. 381. Reversing decision of Otto, T., Acting Secretary, Sept. 30, 1867, in same case. (Not recorded.)

NOTE.—A captain's clerk in the Navy occupies an anomalous position. He holds no commission or warrant—he is not, in fact, an enlisted man—but by usage is accorded certain privileges of officers. The commanding officer of a United States ship appoints his clerk without special authority from the Navy Department, who is not regarded as in the service until he enters upon his duties, nor after he permanently leaves the vessel. If, however, detached from a vessel on a foreign station, he would be held to be in service for such time as would be necessary to enable him to return to the United States by the shortest and most direct route, and if ordered to report himself to the Navy Department, by a superior officer, he would be held to be in the service for a sufficient time at least to enable him to obey the order. (Substance of communications from the Navy Department in the claim cited above.)

3½. DISABILITY, RECORD OF.

See SECTIONS 4762, 4763, REVISED STATUTES, PARAGRAPH 23 THIS TITLE.

NAVY—Continued.**4. DISCONTINUANCE OF PENSIONS.****DECISION OF THE SECRETARY OF THE INTERIOR.**

(1) A widow was pensioned under act of March 3, 1837; her name was dropped from the rolls in September, 1842, the act of March 3, 1837 being repealed by the act of August 23, 1842. The pension was discontinued by the Secretary of the Navy, who was then (1842) intrusted with the administration of the Navy pension laws. Section 4725, Revised Statutes, does not operate to revive such a pension.

Schurz, C., Secretary. Apr. 21, 1877. Navy file No. 1,229. Wade, Mary D., widow of John T. Vol. 5, p. 88.

5. DISLOYALTY.**DECISION OF THE SECRETARY OF THE INTERIOR.**

(1) The act of March 3, 1877, removing the disability of those who, having participated in the rebellion, subsequently enlisted and contracted a disability in the Army, does not apply to the Navy.

Joelyn, M. L., Acting Secretary. Aug. 27, 1884. Navy app. No. 2,876. Dennison, Salathiel. Vol. 11, p. 344.

Muldrow, H. L., Acting Secretary. Mar. 27, 1885. Navy app. No. 2,011. Dougherty, Catharine. O. W. and N. Vol. 3, p. 342.

See also DISLOYALTY AND PARAGRAPH 6 OLD WARS.

6. FORMS AND REGULATIONS.

Act of March 2, 1867, sections 4756, 4757, Revised Statutes.

DECLARATION FOR NAVY INVALID PENSION.

[Form of application to be filed in the Pension Office.

STATE OF ———, COUNTY OF ———, ss :

On this — day of ———, one thousand eight hundred and ———, personally appeared before me, ———, within and for the county and State aforesaid, ———, a resident of ———, in the State of ———, who, being duly sworn according to law, declares that he is the identical ———, who was honorably discharged from the United States * ———, having served therein ——— years; that his personal description is as follows: Age, ———; height, ———; complexion, ———; hair, ———; and by occupation is a ———; that he is disabled as follows: _____

that he is — a pensioner under — act ———. He makes this application in order to secure the benefits of the act "amending certain acts relating to the Navy," approved March 2, 1867, having, on the — day of ———, eighteen hundred and ———, made application to the Secretary of the Navy for the same.

[If applicant makes mark, let two persons who write their names attest the signature.]

* State whether Navy or Marine Corps, and date of last discharge.

Application must be made before a court of record, or before some officer of such court authorized to administer oaths and having custody of its seal.

When applicant or witnesses sign by mark, the certifying officer must state that the contents of the instrument were made known to them before signing.

NAVY—Continued.

Also personally appeared _____ and _____, residents of _____, persons whom I certify to be respectable and entitled to credit, and who, being by me duly sworn, say that they were present and saw _____ sign his name to the foregoing declaration; and they further swear that they have every reason to believe from the appearance of the applicant and their acquaintance with him, that he is the identical person he represents himself to be; and they further state that they have no interest in the prosecution of this claim.

[Signatures of witnesses.] _____

Sworn to and subscribed before me this _____ day of _____, A. D. 188—; and I hereby certify that I have no interest, direct or indirect, in the prosecution of this claim.

[Signature of judge or other officer:] _____

[Applicant's post-office address:] _____

[Form of application to be filed with the Secretary of the Navy.]

The undersigned respectfully applies to the honorable _____, Secretary of the Navy, for the benefits of the sixth section of the act approved March 2, 1867, sections 4756, 4757 Revised Statutes, having served _____ years, and was last discharged from the U. S. S. _____ as _____ on the _____, 18—, and furnishes the following statement of his naval service:

Dates of enlistments.	Names of vessels.	Rating.	Commanding officers.	Dates of discharges.

And further states that he is _____ years of age, _____ feet _____ inches in height, and was born _____, and has the following permanent marks and scars: _____, all of which can be verified by the records of the Navy Department and the vessels named.

_____, 18—.

[Signature:] _____

[Address:] _____

See **BLANK FORMS OF DECLARATIONS FOR ARMY AND NAVY PENSIONS, also REGULATIONS RELATING TO ARMY AND NAVY PENSIONS.**

7. FUND, NAVY PENSION.

Section 4750, Revised Statutes.

The Secretary of the Navy shall be trustee of the Navy pension-fund.

Sec. 1, 10 July, 1832.

NAVY—Continued.**Section 4751, Revised Statutes.**

All penalties and forfeitures incurred under the provisions of sections twenty-four hundred and sixty-one, twenty-four hundred and sixty-two, twenty-four hundred and sixty-three, Title "THE PUBLIC LANDS," shall be sued for, recovered, distributed, and accounted for under the directions of the Secretary of the Navy, and shall be paid over, one half to the informers, if any, or captors, where seized, and the other half to the Secretary of the Navy for the use of the Navy pension-fund; and the Secretary is authorized to mitigate, in whole or in part, on such terms and conditions as he deems proper, by an order in writing, any fine, penalty, or forfeiture so incurred.

Sec. 3, 2 Mar., 1831.

Section 4752, Revised Statutes.

All money accruing or which has already accrued to the United States from sale of prizes shall be and remain forever a fund for the payment of pensions to the officers, seamen, and marines who may be entitled to receive the same; if such fund be insufficient for the purpose, the public faith is pledged to make up the deficiency; but if it should be more than sufficient, the surplus shall be applied to the making of further provision for the comfort of the disabled officers, seamen, and marines.

Sec. 1, 17 July, 1862.

Section 4753, Revised Statutes.

The Secretary of the Navy, as trustee of the naval pension-fund, is directed to cause to be invested in the registered securities of the United States, on the first day of January and the first day of July of each year, so much of said fund then in the Treasury of the United States as may not be required for the payment of naval pensions for the then current fiscal year; and, upon the requisition of the Secretary, so much of the fund as may not be required for such payment of pensions accruing during the current fiscal year shall be held in the Treasury on the days above named in each year, subject to his order, for the purpose of such immediate investment; and the interest payable in coin upon the securities in which the fund may be invested shall be so paid, when due, to the order of the Secretary of the Navy, and he is authorized and directed to exchange the amount of such interest, when paid in coin, for so much of the legal currency of the United States as may be obtained therefor at the current rates of premium on gold, and to deposit the interest so converted in the Treasury to the credit of the naval pension-fund; but nothing herein contained shall be construed to interfere with the payment of naval pensions under the supervision of the Secretary of the Interior as regulated by law.

Resolution 1 July, 1864.

NAVY—Continued.**Section 4754, Revised Statutes.**

The interest on the naval pension-fund shall hereafter be at the rate of three per centum per annum in lawful money.

Sec. 2, 23 July, 1868.

Section 4755, Revised Statutes.

The Navy pensions shall be paid from the Navy pension-fund, but no payments shall be made therefrom except upon appropriations authorized by Congress.

Act 11 July, 1870.

Section 4758, Revised Statutes.

The Secretary of the Navy shall be trustee of the privateer pension-fund.

Secs. 8, 5, 10 July, 1882.

Section 4759, Revised Statutes.

Two per centum on the net amount, after deducting all charges and expenditures, of the prize-money arising from captured vessels and cargoes, and on the net amount of the salvage of vessels and cargoes recaptured by the private armed vessels of the United States, shall be secured and paid over to the collector or other chief officer of the customs of the port or place in the United States at which such captured or recaptured vessels may arrive; or to the consul or other public agent of the United States residing at the port or place, not within the United States, at which such captured or recaptured vessels may arrive. And the moneys arising therefrom are pledged by the Government of the United States as a fund for the support and maintenance of the widows and orphans of such persons as may be slain, and for the support and maintenance of such persons as may be wounded and disabled on board of the private armed vessels of the United States, in any engagement with the enemy, to be assigned and distributed in such manner as is or may be provided by law.

Sec. 17, 26 June, 1812.

Section 4760, Revised Statutes.

The two per centum reserved in the hands of the collectors and consuls by the preceding section shall be paid to the Treasury, under the like regulations provided for other public money, and shall constitute a fund for the purposes provided for by that section.

Sec. 1, 13 Feb., 1813.

8. GUNBOAT SERVICE.

See GUNBOAT, RAM-FLEET, AND MISSISSIPPI MARINE BRIGADE.

NAVY—Continued.

9. LIMITATION.

DECISION OF THE SECRETARY OF THE INTERIOR.

(1) It appearing from certain correspondence found among the records of the office that some kind of an application on account of a disability contracted prior to March 4, 1861, was filed in the Pension Office in 1863, and within three years of the date of discharge of the soldier, although no claim or record of any claim is found: *Held*, that the application referred to was sufficient to save the case from bar of limitation fixed by section 4713, Revised Statutes.

Teller, H. M., Secretary. Jan. 11, 1883. Navy file No. 4,283. Barney, Samuel C. O. W. and N. Vol. 3, p. 139.

See also LIMITATION AND PARAGRAPH 13, OLD WAR.

10. LINE OF DUTY.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

(1) The death of an officer of the Navy of a disease contracted while on the retired list does not give title to pension to his widow.

Delano, C., Secretary. May 29, 1874. Navy, Wid. File No. 2,433. Lanman, Ann Cornelia, widow of Joseph. Vol. 3, p. 224.

(2) Officers upon the retired list of the Navy, when not engaged upon active duty, may properly be regarded in the same light for pension purposes as if upon leave of absence or on furlough.

"If, on the other hand, an officer on the retired list of the Navy contract a disability while employed upon any duty to which he had been assigned by authority of law, and his death result therefrom, the right of his widow to pension should be decided, so far as the question of the origin of the death cause is concerned, without regard to whether he was, at the time of such origin, borne upon the retired list of officers."

Teller, H. M., Secretary. May 5, 1882. Navy, Wid. File No. 3,166. Watson, Theresa C. Vol. 2, p. 179.

RULING BY THE COMMISSIONER OF PENSIONS.

RULING No. —. April 30, 1885.

The officers and crew of the *Jeannette* were in the naval service of the United States; the order of the Secretary of the Navy, dated May 8, 1879, detailing Lieutenant De Long to special duty at New York, and then to command the *Jeannette*, operates to change his status from "absent with leave," to that of active duty, and his death was due to causes arising while in the line of duty, thereby entitling his widow to pension.

These conclusions were concurred in by the Honorable Secretary of the Navy under date of May 21, 1885.

De Long, Emma, widow of Lieut. Commander G. W. De Long. Navy, Wid. File No. 3,265.

See also LINE OF DUTY.

NAVY—Continued.**11. LOYALTY.**

See PARAGRAPH 5 THIS TITLE.

12. MARRIAGE.

See MARRIAGE.

13. MISSISSIPPI MARINE BRIGADE.

See GUNBOAT, RAM-FLEET AND MISSISSIPPI MARINE BRIGADE.

14. MUSICIANS AT THE NAVAL ACADEMY.**DECISION OF THE SECRETARY OF THE NAVY.**

(1) The entire Naval Academy band was transferred to the civil roll July 1, 1865. Where a musician had enlisted for a term of three years prior to that date, although transferred to the civil roll prior to expiration of term of enlistment without a discharge at date of transfer: *Held*, that he should be regarded as an enlisted man in the naval service until the expiration of his term of enlistment.

Harmony, D. B., Acting Secretary of Navy. June 9, 1885. Navy App. No. 9,447. *Pfaffner*, John P. Not recorded.

15. RAM-FLEET.

See GUNBOAT, RAM-FLEET AND MISSISSIPPI MARINE BRIGADE.

16. RANK.**DECISION OF CHIEF OF BUREAU OF NAVIGATION, NAVY DEPARTMENT.**

(1) The term "commanding" as formerly applied to the grade of lieutenant, referred only to lieutenants commanding vessels at sea. No permanent grade of lieutenant commanding or master commanding was ever created by law. The designation was temporary. The act of March 3, 1835, allowed increase of pay to lieutenants commanding. The act of June 1, 1860, fixed the pay of lieutenants commanding at sea. After the grade of lieutenant-commander was established by act of July 16, 1862, the designation of lieutenant commanding ceased.

There is no law increasing pay of masters commanding vessels at sea, nor is the term "commanding" applied to masters by the Navy Department.

Whiting, W. D., Chief of Bureau of Navigation. Sept. 29, 1881.

17. RANK, RELATIVE.**DECISION OF THE SECRETARY OF THE INTERIOR.**

(1) Civil engineers of the Navy are officers in the Navy, possessing defined relative rank as such, with other officers in the Navy, and are not merely civil officers connected with the Navy. They are officers in the Navy within the meaning of the pension laws.

NAVY—Continued.

A civil engineer in the Navy is most nearly assimilated in rank to a lieutenant, and in the execution of the pension laws may properly be regarded as having held that rank. And the widow of such officer is entitled under the conditions of section 4702, Revised Statutes, to pension of \$25 per month.

Teller, H. M., Secretary. May 27, 1882. Navy, Wid. File No. 2,958. Stratton, Georgie E. Vol. 9, p. 226.

DECISIONS OF THE NAVY DEPARTMENT.

(1) Officers of the Navy on shore duty are not paid at the same rate as those performing duty at sea. During the late war, however, all officers attached to the Mississippi squadron, whether performing duty on shore or on shipboard, were given sea pay.

Walker, J. E., Chief of Bureau of Navigation. Sept. 23, 1882. Navy Inv. File No. 4,992. Wetmore, H. S. O. W. and N. Vol. 3, p. 118.

(2) The rank of naval constructors is regulated by act of March 3, 1871, section 9, now section 1477, Revised Statutes, which provides that there shall be two with the rank of captain, three with rank of commander, and that all others shall have rank of lieutenant-commander or lieutenant, and that assistant naval constructors shall have rank of lieutenant or master. None of these officers are entitled to emoluments in addition to pay prescribed by law.

Chandler, W. E., Secretary of Navy. Jan. 26, 1884. Navy, Wid. File No. 3,096. Hardt, Mary. O. W. and N. Vol. 3, p. 219.

18. RATE OF PENSION.

(For law see title *Rates of Pension* ; also paragraph 23 this title.)

DECISION OF THE SECRETARY OF THE INTERIOR.

(1) Army and Navy pensions allowed prior to July 25, 1866, for service rendered prior to March 4, 1861, must, under the provisions of section 4712, Revised Statutes, conform in rate to the laws applicable to pensioners of the late war. The rate fixed in special acts should be subject to be varied by the general laws in force at each successive period when the pension becomes due and payable.

[Under act of June 9, 1880, the pensions allowed prior to July 25, 1866, for navy service, and reduced under above decision, were restored to their original rates. The rate of pension in special act cases is now fixed by section 4720, Revised Statutes. See also act of June 6, 1874, APPENDIX.]

Cox, J. D., Secretary. Feb. 19, 1870. Navy file No. 966. Porter, Eveline, widow of David. Vol. 1, p. 73. Reaffirmed in same case by Schurz, C., Secretary. Feb. 7, 1880. Not recorded.

19. REMARRIAGE.

See REMARRIAGE.

20. RETIRED OFFICERS.

See PARAGRAPH 10 THIS TITLE.

NAVY—Continued.**21. REVENUE MARINE OR REVENUE CUTTERS.**

See CIVILIANS IN SERVICE OF QUASI-MILITARY CHARACTER;

See also PARAGRAPH 23 THIS TITLE.

22. SERVICE PENSIONS.

(For law see paragraph 23 this title.)

[NOTE.—Pensions granted under section 6 of the act of March 2, 1867, now sections 4756 and 4757, Revised Statutes, are wholly under the control of the Secretary of the Navy, to whom all applications should be made. The Pension Office requires that claimants shall also file an application therein, properly executed before a court of record. This is deemed essential in order to identify the party whose claim has been adjudicated by the Navy Department.

Pensions granted under the act of March 2, 1867, were made to commence from the date of the passage of said act until July 13, 1869, when, by decision of the chief of the Bureau of Equipment and Recruiting, the pension for less than twenty years' service commenced from the date of the report made by the board of survey. This practice continued in force until April 28, 1870, when the Secretary of the Navy decided that all pensions granted under the act of March 2, 1867, should commence from the date of his approval of the claim. Under date of June 4, 1875, the Secretary of the Navy again decided that pensions under said act should commence on the date of filing the application in the Navy Department. (This rule is now in force). In this class of cases it is not essential that a claimant should prove the fact of the incurrence of a disability in the service and line of duty. The law, however, allows a party in receipt of a pension of less than \$8 per month, under the general pension laws, to receive an additional pension if he has served more than ten years and less than twenty years in the United States Navy. The pensions for service and disability together not to exceed the rate of \$8 per month.]

DECISIONS OF THE NAVY DEPARTMENT.

(1) Pensions under the sixth section of the act of March 2, 1867 [secs. 4756 and 4757, R. S.], do not come within the terms of the law that "pensions granted in consequence of death occurring, or disease contracted, or wounds received, shall commence from date of discharge," as that provision refers only to pensions adjudicated by the Commissioner of Pensions.

A pensioner under the act of March 2, 1867, cannot exchange or surrender his pension for a home in the asylum "without furnishing the evidence required by the regulations for admission into the asylum."

Beneficiaries of the Naval Asylum are not excluded from the benefits of the sixth section of the act of March 2, 1867, section 4756 Revised

NAVY—Continued.

Statutes, by admission prior to its passage, but in all cases a pension for twenty years' service must be "in lieu of" and not additional to a home in said asylum, and also in lieu of, and not additional to, any other pension which he would be required to surrender before being admitted into the asylum.

Instructions: Robeson, G. M., Secretary. Apr. 28, 1870.

(2) Pension under the provision of section 4756, Revised Statutes, is suspended, not terminated, by re-enlistment for such service as is consistent with physical disqualification for sea service or by re-enlistment for general service where physical disqualification is waived, and may therefore be restored on discharge. A sailor's or pensioner's status would remain unchanged even though his re-enlistment may have been at a higher grade but under physical disabilities disqualifying him for a sea service. But on the contrary, if, upon re-enlistment, he be found physically qualified for sea service, the pension would terminate, and a new application, including the additional service, would be necessary to secure further pension under said section, and the allowance would depend upon rating at last discharge.

A pension allowed under the provisions of section 4757, Revised Statutes, for a specified time, would terminate upon re-enlistment.

Chandler, W. E., Secretary. Apr. 23, 1883. Navy file No. 3031. McDonough, James. O. W. and N. Vol. 3, p. 184.

Nichols, E. T., Acting Secretary. July 17, 1883. Navy file No. 4807. Knight, Joseph. O. W. and N. Vol. 3, p. 191.

DECISION OF THE SECRETARY OF THE INTERIOR.

(1) Beneficiaries under section 4757, Revised Statutes, are not entitled to arrears under the acts of January 25, 1879, and March 3, 1879.

Schurz, C., Secretary. Sept. 23, 1880. Navy Inv. file No. 4,061. Pierce, James W. Vol. 8, p. 17.

23. TITLE.**Section 4728, Revised Statutes.**

If any officer, warrant or petty officer, seaman, engineer, first, second, or third assistant engineer, fireman or coal-heaver of the Navy or any marine has been disabled prior to the fourth day of March, eighteen hundred and sixty-one, by reason of any injury received or disease contracted in the service and line of duty, he shall be entitled to receive during the continuance of his disability a pension proportionate to the degree of his disability, not exceeding half the monthly pay of his rank as it existed in January, eighteen hundred and thirty-five. But the pension of a chief engineer shall be the same as that of a lieutenant of the Navy; the pension of a first assistant engineer the same as that of a lieutenant of marines; the pension of a second or third assistant engineer the same as that of a forward officer; the pension of a fireman or coal heaver the same as that of a seaman; but an engineer, fireman,

NAVY—Continued.

or coal heaver shall not be entitled to any pension by reason of a disability incurred prior to the thirty-first day of August, eighteen hundred and forty-two.

Secs. 2, 3; 11 Aug., 1848; sec. 11, 1 July, 1791; sec. 8, 23 April, 1800.

Section 4739, Revised Statutes.

If any person referred to in the preceding section has died in the service, of injury received or disease contracted under the conditions therein stated, his widow shall be entitled to receive half the monthly pay to which the deceased was entitled at the date of his death; and in case of her death or marriage, the child or children under sixteen years of age shall be entitled to the pension. But the rate of pension herein allowed shall be governed by the pay of the Navy as it existed in January, eighteen hundred and thirty-five; and the pension of the widow of a chief engineer shall be the same as that of a widow of a lieutenant in the Navy; the pension of the widow of a first assistant engineer shall be the same as that of the widow of a lieutenant of marines; the pension of the widow of a second or third assistant engineer the same as that of the widow of a forward officer; the pension of the widow of a fireman or coal-heaver shall be the same as that of the widow of a seaman. But the rate of pension prescribed by this and the preceding section shall be varied from and after the twenty-fifth day of July, eighteen hundred and sixty-six, in accordance with the provisions of section four thousand seven hundred and twelve of this Title; and the widow of an engineer, fireman, or coal-heaver shall not be entitled to any pension by reason of the death of her husband, if his death was prior to the thirty-first day of August, eighteen hundred and forty-two.

Secs. 1, 2, 3; 11 Aug., 1848.

Section 4741, Revised Statutes.

The officers and seamen of the revenue cutters of the United States, who have been or may be wounded or disabled in the discharge of their duty while co-operating with the Navy by order of the President, shall be entitled to be placed on the Navy pension list, at the same rate of pension and under the same regulations and restrictions as are provided by law for the officers and seamen of the Navy.

Act 18 April, 1814.

Section 4761, Revised Statutes.

The Secretary of the Interior is required to place on the pension list, under the like regulations and restrictions as are used in relation to the Navy of the United States, any officer, seaman, or marine who, on board of any private armed vessel bearing a commission of letter of marque, shall have been wounded or otherwise disabled in any engagement with the enemy, or in the line of their duty as officers, seamen, or marines of such private armed vessel; allowing to the captain a sum not exceeding twenty dollars per month; to lieutenants and sailing-master

NAVY—Continued.

a sum not exceeding twelve dollars each per month; to marine officer, boatswain, gunner, carpenter, master's mate, and prize-masters a sum not exceeding ten dollars each per month; to all other officers a sum, not exceeding eight dollars each per month, for the highest rate of disability, and so in proportion; and to a seaman, or acting as a marine, the sum of six dollars per month, for the highest rate of disability, and so in proportion; which several pensions shall be paid from moneys appropriated for the payment of pensions.

Sec. 2; 13 Feb., 1813; sec. 2; 5 April, 1866.

Section 4762, Revised Statutes.

The commanding officer of every vessel having a commission, or letters of marque and reprisal, shall enter in his journal the name and rank of any officer, and the name of any seaman, who, during his cruise, is wounded or disabled, describing the manner and extent, as far as practicable, of such wound or disability.

Sec. 3; 13 Feb., 1813.

Section 4763, Revised Statutes.

Every collector shall transmit quarterly to the Secretary of the Navy a transcript of such journals as may have been reported to him, so far as it gives a list of the officers and crew, and the description of wounds and disabilities, the better to enable the Secretary to decide on claims for pensions.

Sec. 4; 13 Feb., 1813.

Act of Congress approved March 3, 1877.

AN ACT amending the pension law so as to remove the disability of those who, having participated in the rebellion, have, since its termination, enlisted in the Army of the United States, and become disabled.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the law prohibiting the payment of any money on account of pensions to any person, or to the widow, children, or heirs of any deceased person, who, in any manner, engaged in or aided or abetted the late rebellion against the authority of the United States, shall not be construed to apply to such persons as afterward voluntarily enlisted in the Army of the United States, and who, while in such service, incurred disability from a wound or injury received or disease contracted in the line of duty. [Not held to apply to Navy cases.]

Act of Congress approved June 18, 1878.

AN ACT to amend section 4695 of the Revised Statutes of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after July six-

NAVY—Continued.

teenth eighteen, hundred and sixty-two, pensions granted to lieutenant-commanders in the Navy for disability, or on account of their death, shall be the same as theretofore provided for lieutenants-commanding.

See sec. 4695, R. S., Appendix.

[NOTE.—The laws relating generally to Navy pensions for service in the civil war and since are included in the provisions for Army pensions of the late war.]

See TITLE OR RIGHT TO PENSION.

Act of Congress approved June 9, 1880.

AN ACT to restore [the rate of] pensions in certain cases.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section three of an act entitled "An act increasing the pensions of widows and orphans, and for other purposes," approved July twenty-fifth, eighteen hundred and sixty-six, and section thirteen of an act entitled "An act relating to pensions," approved July twenty-seventh, eighteen hundred and sixty-eight, and section forty-seven hundred and twelve of the Revised Statutes, shall not operate to reduce the rate of any pension which had actually been allowed to the commissioned, non-commissioned, or petty officers of the Navy or their widows, or minor children, prior to July twenty-fifth, eighteen hundred and sixty-six; and the Secretary of the Interior is hereby directed to restore all such pensions as have already been so reduced to the rate originally granted and allowed, to take effect from the date of such reduction.

See sec. 4712 R. S.; paragraph 19 old war.

[NOTE.—Pensions allowed under the two following sections are virtually service pensions and are adjudicated in the Navy Department, but applications are also required to be filed in the Pension Office, where a record is kept of such claims.]

Section 4756, Revised Statutes.

There shall be paid out of the naval pension fund to every person who, from age or infirmity, is disabled from sea-service, but who has served as an enlisted person in the Navy or Marine Corps for the period of twenty years, and not been discharged for misconduct, in lieu of being provided with a home in the Naval Asylum, Philadelphia, if he so elects, a sum equal to one-half the pay of his rating at the time he was discharged, to be paid him quarterly, under the direction of the Commissioner of Pensions; and application for such pension shall be made to the Secretary of the Navy, who, upon being satisfied that the applicant comes within the provisions of this section, shall certify the same to the Commissioner of Pensions, and such certificate shall be his warrant for making payment as herein authorized.

Act 2 Mar. 1867.

Section 4757, Revised Statutes.

Every disabled person who has served in the Navy or Marine Corps as an enlisted man for a period not less than ten years, and not been

NAVY—Continued.

discharged for misconduct, may apply to the Secretary of the Navy for aid from the surplus income of the naval pension-fund; and the Secretary of the Navy is authorized to convene a board of not less than three naval officers, one of whom shall be a surgeon, to examine into the condition of the applicant, and to recommend a suitable amount for his relief, and for a specified time, and upon the approval of such recommendation by the Secretary of the Navy, and a certificate thereof to the Commissioner of Pensions, the amount shall be paid in the same manner as is provided in the preceding section for the payment to persons disabled by long service in the Navy; but no allowance so made shall exceed the rate of a pension for full disability corresponding to the grade of the applicant, nor, if in addition to a pension, exceed one-fourth the rate of such pension.

Proviso. Act 3 Mar. 1867.

24. WARS AND LOCAL DISTURBANCES.

See WARS AND LOCAL DISTURBANCES, &C.

25. WIDOWS.

See WIDOWS.

NEW DISABILITIES, COMMENCEMENT OF PENSION FOR.**DECISION OF THE SECRETARY OF THE INTERIOR.**

When an application for invalid pension was filed prior to July 1, 1880, and a supplemental one on account of another or a new disability was filed subsequent to that date, the pension, if allowed, so far as the new disability is concerned, will commence from the date of the filing the declaration therefor.

Current, John. No. 170,556. Kirkwood, S. J., Secretary. Nov. 11, 1881. See his letter of instructions in the Amos Burton case. Vol. 8, p. 474.

McKinney, John. Ctf. No. 184,889. Kirkwood, S. J., Secretary. Dec. 7, 1881. Vol. 9, p. 23.

Dore, Robert M. Ctf. No. 219,076. Joslyn, M. L., Acting Secretary. July 30, 1883. Vol. 11, p. 7.

NEW ULM, MINN., SIOUX MASSACRE AT.

See SIOUX INDIAN MASSACRE AT NEW ULM, MINN., 1862.

NON-ENLISTED MEN.**DECISION OF THE SECRETARY OF THE INTERIOR.**

A non-enlisted man "volunteered for the time being to serve at the battle of New Berne, N. C., during the late rebellion, and received an injury during the engagement. He died in April, 1879, without having filed a claim for invalid pension. His widow filed his claim for pension, alleging that his death was caused by said injury.

On appeal from the rejection of her claim by the Pension Office, it was *Held*: That if there had been a claim for invalid pension filed, it

NON-ENLISTED MEN—Continued.

could not have been allowed, "unless all the evidence to sustain it was filed prior to the fourth day of July, 1874," and that the claim of the widow was properly rejected, "because of the limitation to the prosecution of a claim made on account of a non-enlisted man." See paragraph 3, section 4693, of the Revised Statutes.

Dayton, Sarah E. No. 2,910 (Navy). Kirkwood, S. J., Secretary. Nov. 28, 1881. Vol. 9, p. 9.

See **CIVILIANS IN SERVICE OF A QUASI-MILITARY CHARACTER, AND SIOUX INDIAN MASSACRE, NEW ULM, MINN., 1862.**

NON-SPECIFIC DISABILITIES.

See **SPECIFIC AND NON-SPECIFIC DISABILITIES.**

O.**OATH OF ALLEGIANCE.**

See **SERVICE PENSIONS, WAR OF 1812, par. 15.**

OBESITY.**DECISION OF THE SECRETARY OF THE INTERIOR.**

Obesity resulting from loss of leg does not warrant increase of pension. The connection cannot be established by conclusive or satisfactory proof and is not probable.

See "EVIDENCE, WEIGHT OR SUFFICIENCY OF," *par. 5.*

OLD WARS.**1. ARMY AND NAVY ROLLS AND RECORDS, WHERE FOUND.**

See **ARMY AND NAVY ROLLS AND RECORDS, WHERE FOUND.**

2. ARREARS.**DECISION OF THE SECRETARY OF THE INTERIOR.**

(1) Both soldier and widow being dead leaving no children, no payment of pension can be made, except under provision of section 4718, Revised Statutes, to wit, to reimburse for expenses of last sickness and funeral. The act of March 3, 1873, repealed all acts or parts of acts inconsistent or in conflict therewith, and the law in force prior to March 3, 1873, therefore has no bearing upon the case. A pension is a gratuity and not a debt, and therefore Congress had full right to cut off any pension which existed under former law.

Schurz, C., Secretary. May 1, 1879. O. W. Inv. File No. 9,783. Lemaster, George. O. W. and N. Vol. 2, p. 109.

OLD WARS—Continued.**3. DEATH, PRESUMPTION OF.**

See PARAGRAPH 26 THIS TITLE.

4. DECLARATIONS.**ORDER OF THE COMMISSIONER OF PENSIONS.**

ORDER No. 11. *November 18, 1871.*

No declaration or affidavit alleging or claiming title to pension, executed subsequent to July 4, 1864, otherwise than before a court of record, or before some officer thereof having custody of its seal, shall be regarded as an application for pension under the provisions of section 6, act of July 27, 1868. But if executed prior (though not before a court of record) and filed subsequent to July 4, 1864, it may be so accepted.

See BLANK FORMS OF DECLARATIONS FOR ARMY AND NAVY PENSIONS; *see* REGULATIONS RELATING TO ARMY AND NAVY PENSIONS.

5. DISCHARGE, HONORABLE.

See PARAGRAPH 24 THIS TITLE; *also* PARAGRAPH 8, SERVICE PENSION WAR OF 1812, *and* (3) PARAGRAPH 14 THIS TITLE.

6. DISLOYALTY.**RULINGS OF THE COMMISSIONER OF PENSIONS.**

RULING No. 35. *March 17, 1866.*

Pensioners residing in the States in and during the rebellion whose names were stricken from the rolls by act of February 4, 1862, shall, upon proof of their loyalty to the Government, be restored, with payment from date of last receipt of pension.

Modified, *see* sections 5, 6, act March 9, 1878.

RULING No. 36. *June 9, 1870.*

Loyalty of minor children, who were residents in the Northern States during the war, may be presumed, in the absence of indications to the contrary.

RULING No. 39. *June 13, 1872.*

After the death of a pensioner whose name has been dropped from the rolls, under the act of February 4, 1862, the widow or children only have the right to prove loyalty of said pensioner, and it is the duty of this office upon receipt of such proof, together with proof of the loyalty of the widow or children, to restore the name of the pensioner to the rolls and to pay the pension accrued to date of death of said pensioner to said heirs.

OLD WARS—Continued.**ORDERS OF THE COMMISSIONER OF PENSIONS.****ORDER No. 29. January 21, 1874.**

In cases in which the name of a pensioner has been dropped from the rolls under the act of February 4, 1862, and application for restoration is made, the applicant will be required, in lieu of the oath and evidence heretofore prescribed in such cases, to testify that he or she has not in any manner voluntarily engaged in or aided or abetted the late rebellion against the authority of the United States, and to prove the facts by the testimony of two witnesses, whose credibility must be certified as required by the circular heretofore in use.

ORDER No. 38. January 28, 1876.

That in the adjudication of claims for bounty-land warrants, or for pension, other than for service in the war of 1812, under the act of March 9, 1878, and for disability incurred in the war of the rebellion, proof of loyalty will be required as follows: The affidavit of the claimant showing loyalty to the United States during the rebellion, supported by the testimony of two credible, disinterested, loyal witnesses, whose credibility must be certified in the jurat by the officer before whom the testimony is taken, and whose credibility and loyalty, together with the credibility and loyalty of the claimant, must be certified by a United States officer. * * *

See also DISLOYALTY.

7. EVIDENCE, PAROL.**DECISIONS OF THE SECRETARY OF THE INTERIOR.**

(1) Where the regular discharge or surgeon's certificate of disability cannot be had, the sworn certificate of a commissioned officer as to time and place of the receipt of the wound or other disability, and the affidavit of a surgeon describing the disability and stating degree thereof, are required.

Regulation of Pension Office (then in War Department). December 23, 1817.

Affirmed. Schurz, C., Secretary. January 13, 1880. O. W. Inv. File No. 5,204. Graves, Thomas. Vol. 7, p. 165.

Schurz, C., Secretary. August 13, 1879. O. W. Wid. Rej. No. 19,423. Frazier, Cordelia A. O. W. and N. Vol. 2, p. 186.

Teller, H. M., Secretary. July 15, 1882. O. W. Inv. Rej. No. 21,005. Vallee, Peter. O. W. and N. Vol. 3, p. 112.

Contra, letter of Secretary. Kirkwood, S. J., Secretary. Dec. 24, 1881. O. W. Inv. Rej. No. 12,768. Brandstatter, Phillip. O. W. and N. Vol. 3, p. 73.

[NOTE.—Under this old ruling of the office, reaffirmed by Secretaries of the Interior since the creation of that Department, it has been the practice in old war claims, where the record contains no evidence of disability, but on the contrary indicates that the soldier was constantly present for duty during his entire service, as a rule, not to accept the testimony of comrades as sufficient to prove, at this late date, the origin in line of duty of a disability, but to insist upon the testimony of commissioned officers and Army surgeons.]

(2) The claim for pension of a widow of a soldier of the Mexican war was rejected "for the reason that there was no record evidence of the

OLD WARS—Continued.

service of the soldier on the rolls of the War Department, and that parol evidence cannot be accepted as proof that he served as alleged."

On appeal, the rejection was affirmed, the Honorable Secretary holding that "the determination of the question whether the husband of the claimant was a soldier in the organization referred to pertains to the business of the War Department, and no evidence other than the report of the proper officer of that Department should be received by the Pension Office as proof of his service.

Kirkwood, S. J., Secretary. Oct. 26, 1881. O. W. Wid. File No. 27,961. Mexican war. Ellen Moore, widow of Allen. Vol. 8, p. 456.

(3) In the absence of record evidence of the service of an applicant, and of a written certificate of discharge, parol evidence is not admissible to prove such service.

Smith, C. B., Secretary. Aug. 31, 1861. O. W. Inv. Rej. No. 18,619. Underhill, Nicholas. Vol. 2, p. 187.

RULING OF THE COMMISSIONER OF PENSIONS.

RULING No. —. March 30, 1885.

In the absence of a record of any sickness, the testimony of a surgeon, a commissioned officer, or the first sergeant of the company will be required to establish the origin of the disability in an old war claim.

O. W. Inv. Rej. No. 16,933. Parker, James. O. W. and N. Vol. 3, p. 339.

See also EVIDENCE, PAROL.

8. FLORIDA WAR.

See PARAGRAPH 24 THIS TITLE.

9. FORMS AND REGULATIONS.

See BLANK FORMS OF DECLARATIONS FOR ARMY AND NAVY PENSIONS; see REGULATIONS RELATING TO ARMY AND NAVY PENSIONS.

10. HALF-PAY PENSIONS.

(For law see paragraphs 19 and 24 this title.)

DECISIONS OF THE SECRETARY OF THE INTERIOR.

(1) Half-pay claims against the State of Virginia, for which the courts of said State have decided her to be liable, are admissible under the third section of the act of July 5, 1832. Executive Departments, in giving construction to a law, should regard opinions expressed by *either* branch of Congress.

Smith, C. B., Secretary. Nov. 22, 1861. O. W. Rejected No. 22,811. Flerer, Charles. Vol. 1, p. 32.

[NOTE.—The act of July 5, 1832, above referred to, provided for reimbursing the State of Virginia for moneys expended in paying pensions to officers of certain of her State regiments, and also provided for the granting of pensions to such officers of said regiments as had not received pensions from the State. Claims under this act were settled in the Treasury Department until March 3, 1835, when they were transferred to the Pension Office, then a bureau of the War Department. The records are still partly on file in the Treasury Department. No claims are being presented at the present day.]

OLD WARS—Continued.

(2) Allowance of half-pay pension in lieu of bounty-land extinguishes title to the latter and *vice versa*.

Smith, C. B., Secretary. Jan. 13, 1862. O. W. Wid. File No. 10,935. Pulaifer, Ann. Vol. 2, p. 164.

[NOTE.—This is under the provisions of the act of April 16, 1816, which has expired by limitation. The half-pay pension in lieu of bounty-land was allowed only to children of enlisted men who were killed in battle or died of wounds received in the war of 1812.]

11. INDIAN WARS.

See PARAGRAPH 24 THIS TITLE.

12. INVALIDS.

See PARAGRAPH 24 THIS TITLE.

LAWS APPLICABLE TO OLD WAR CLAIMS.**DECISION OF THE SECRETARY OF THE INTERIOR.**

(1) Claims should be adjudicated under ante-rebellion laws, if disability was contracted prior to March 4, 1861.

Instructions: Smith, C. B., Secretary. Sept. 10, 1862.

13. LIMITATIONS.**Section 4713, Revised Statutes.**

In all cases in which the cause of disability or death originated in the service prior to the fourth day of March, eighteen hundred and sixty-one, and an application for pension shall not have been filed within three years from the discharge or death of the person on whose account the claim is made, or within three years of the termination of a pension previously granted on account of the service and death of the same person, the pension shall commence from the date of filing by the party prosecuting the claim the last paper requisite to establish the same. But no claim allowed prior to the sixth day of June, eighteen hundred and sixty-six, shall be affected by anything herein contained.

June 6, 1866, sec. 13; July 25, 1866, sec. 3; Mar. 3, 1873, sec. 19; sec. also, Feb. 21, 1795, sec. 1; May 20, 1820, sec. 2; Feb. 4, 1822, sec. 2; May 24, 1823, sec. 2.

DECISIONS OF THE SECRETARY OF THE INTERIOR AND ATTORNEY-GENERAL.

(1) Where a disability was contracted prior to March 4, 1861, the limitation provided in section 4713, Revised Statutes, applies, and if the claim was not filed within three years after the right accrued the pension should commence from the date of filing the last material evidence. This works no hardship, because, under the military establishment acts, and the regulations made by the President thereunder, an invalid pension would commence only from the date when it was established.

Gorham, C. T., Acting Secretary. Oct. 21, 1876. O. W. Inv. File No. 45,849. Colby, Rowland A. O. W. and N. Vol. 2, p. 1. Affirming decision of Delano, C., Secretary, in same case. Feb. 18, 1873. Vol. 1, p. 291.

Teller, H. M., Secretary. Oct. 19, 1882. O. W. Inv. File No. 46,600. Clarke, Josiah W. O. W. and N. Vol. 3, p. 121.

OLD WARS—Continued.

(2) A soldier who was continuously in service from 1855 to 1865, contracted disability in 1858 and also in the late war. He did not make claim until 1869: *Held*, that the claim for the part of the disability contracted prior to the late war is subject to the limitation of section 4713, Revised Statutes, and can commence only from date of filing last material evidence.

Schurz, C., Secretary. Nov. 12, 1879. O. W. Inv. File No. 45,981. Averill, Gen. Wm. W. O. W. and N. Vol. 2, p. 197.

(3) The exceptions as to limitation, contained in section 4709, Revised Statutes, in favor of minor children and insane persons, do not apply to claims under the ante-rebellion laws, as no exceptions are made in favor of such persons in section 4713, Revised Statutes.

Browning, O. H., Secretary. Dec. 31, 1868. O. W. Rejected No. 12,327. Barr, Bernhard, minor child of. Vol. 2, p. 83.

Delano, C., Secretary. Sept. 28, 1875. O. W. Rejected No. 14,007. Enders, John, minor of Vol. 4, p. 114.

(4) Where a widow who had been granted a five years' half-pay pension failed to have her name put upon the rolls for a life pension under the provisions of the act of June 3, 1858: *Held*, that in a claim for a renewal of her pension, filed more than three years after the expiration of her five years' pension, she is barred under the provisions of section 4713, Revised Statutes, from all arrears. (Reversed. See (6) this paragraph.)

Cox, J. D., Secretary. Feb. 19, 1870. O. W. Wid. File No. 4,622. Wheeler, Agnes, widow of James. Vol. 12, p. 134. Reversing his decision in same case of Oct. 4, 1869. Vol. 22, p. 144.

(5) A widow of a soldier of the Mexican war was granted a half-pay pension, under the act of July 21, 1848, for five years from the date of his death, which occurred December 10, 1847. She was also allowed an additional five years' half-pay pension under the act of February 3, 1853. Her pension under this act terminated December 10, 1857. In April, 1870, she filed a claim under the act of June 3, 1858, for a renewal or continuance of the half-pay pension. This claim was allowed and the pension was made to commence from April 20, 1870, the date of filing the application. In 1875 she filed a claim for arrears of half-pay pension for the period from December 10, 1857, to April 20, 1870. This claim for arrears was rejected because of the limitation, as to filing, contained in section 4713, Revised Statutes. (Reversed. See next.)

This action was approved by the opinion of the Acting Attorney-General, S. F. Phillips, dated Oct. 17, 1881. O. W. Wid. File No. 12,217. Savilla Athey, widow of Joseph. Vol. 8, p. 463.

(6) A half-pay pension was allowed to a widow under act of February 3, 1853, for five years from December 3, 1853. This pension did not terminate until after the passage of the act of June 3, 1858, granting life pensions in lieu of five years' pension: *Held*, that as pensioner's name was on the rolls when the act of 1858 was passed, she might have

OLD WARS—Continued.

been continued for life without requiring of her an application, and that the limitation of Section 4713, Revised Statutes, does not apply to such a case.

Joslyn, M. L., Acting Secretary. Mar. 5, 1885. O. W. Wid. File No. 11,156. Millity, Rose, widow of Elias. O. W. and N. Vol. 3, p. 327.

RULING OF THE COMMISSIONER OF PENSIONS.**RULING No. 46. April 4, 1853.**

Pensions granted under section 1, act of February 3, 1853, commence from the date of completing proof.

See also PARAGRAPH 9, NAVY, AND LIMITATION.

14. MEXICAN WAR.

(For law see paragraph 24 this title.)

DECISIONS OF THE SECRETARY OF THE INTERIOR.

(1) Commenced April 24, 1846, the date of the letter of the Mexican general to General Taylor, in which he gave notice that he considered hostilities commenced.

Ewing, T., Secretary. June 10, 1850. O. W. and N. Vol. 4, p. 28.

(2) This Department has decided that peace was established with Mexico on the 30th of May, 1848; consequently no soldier can, subsequent to that date, have volunteered or enlisted to serve "during the present war with Mexico."

McClelland, R., Secretary. Sept. 16, 1853. O. W. and N. Vol. 4, p. 64.

(3) A soldier of the Mexican war is not entitled to pension for disabilities contracted therein, unless honorably discharged. (Section 4730, Revised Statutes. See paragraph 24 this Title.)

Bell, A., Acting Secretary. June 1, 1881. O. W. Rejected No. 20,142. Kelly, John C. Vol. 8, p. 260.

See, also, (2) PARAGRAPH 7 THIS TITLE.

15. MILITARY PEACE ESTABLISHMENT.

See PARAGRAPH 24 THIS TITLE.

16. MINOR CHILDREN.

See PARAGRAPH 24 THIS TITLE.

17. NAVY.

See NAVY.

18. PRIVATEERSMEN.**RULING OF THE COMMISSIONER OF PENSIONS.****RULING No. 56. January, 22, 1872.**

Privateersmen are not regarded as enlisted men in the service of the United States.

OLD WARS—Continued.

19. RATE OF PENSIONS.

Act of Congress, approved April 24, 1816.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That all persons of the rank hereinafter named, who are now on the military pension roll of the United States, shall, from and after the passage of this act, be entitled to, and receive for disabilities of the highest degree, the following sums, in lieu of those to which they are now entitled, to wit: a first lieutenant, seventeen dollars; a second lieutenant, fifteen dollars; a third lieutenant, fourteen dollars; an ensign, thirteen dollars; and a non-commissioned officer, musician, or private, eight dollars per month; and for disabilities of a degree less than the highest, a sum proportionably less.

[Note.—The rates of pension provided in this act, for total disability, for grades below that of captain, except for the grades of third lieutenant and ensign, which have been abolished, have not since been changed. The rates for grades above that of first lieutenant were the half pay of the respective grades, but in no case exceeding that of a lieutenant-colonel, until July 25, 1866, when the rates provided by the act of July 14, 1862, were substituted.]

Section 4712, Revised Statutes.

The provisions of this title in respect to the rates of pension to persons whose right accrued since the fourth day of March, eighteen hundred and sixty-one, are extended to pensioners whose right to pension accrued under general acts passed since the war of the Revolution and prior to the fourth day of March, eighteen hundred and sixty-one, to take effect from and after the twenty-fifth day of July, eighteen hundred and sixty-six; and the widows of revolutionary soldiers and sailors receiving a less sum shall be paid at the rate of eight dollars per month from and after the twenty-seventh day of July, eighteen hundred and sixty-eight.

July 25, 1866, sec. 3; joint resolution, Feb. 18, 1867; July 27, 1868, sec. 13; see amendment act June 9, 1880, in Appendix; Mar. 3, 1873, sec. 18.

(For further law see paragraph 24 this title.)

DECISION OF THE SECRETARY OF THE INTERIOR.

(1) Army and Navy pensions allowed prior to July 25, 1866, for service rendered prior to March 4, 1861, must, under the provisions of section 4712, Revised Statutes, conform in rate to the laws applicable to pensioners of the late war.

The rate fixed in special acts should be subject to be varied by the general laws in force at each successive period when the pension becomes due and payable.

[NOTE.—The rate of pension in special act cases is now fixed by section 4720, Revised Statutes. See, also, act of June 6, 1874, in Appendix. See title SPECIAL ACTS.]

Cox, J. D., Secretary. Feb. 19, 1870. Navy. File No. 966. Porter, Eveline, widow of David. Vol. 1, p. 73.

Reaffirmed by Schurz, C., Secretary. Feb. 7, 1880, in same case. (Not recorded.)

See, also, PARAGRAPH 21 THIS TITLE.

OLD WARS—Continued.

20. REMARRIAGE.

See (3) PARAGRAPH 23 THIS TITLE; *see* REMARRIAGE.

21. RENEWALS.

DECISION OF THE SECRETARY OF THE INTERIOR.

(1) Where the pensioner was receiving \$8 per month for disability incurred while a soldier in time of peace prior to the late war, and his name dropped from the rolls on account of his enlistment in the Union Army during the late rebellion, the action of the office was sustained in renewing pension from date of dropping, at less rate than originally pensioned, deducting for the period he was in the second service.

Schurz, C., Secretary. Feb. 20, 1880. O. W. Inv. File No. 45,792. Gaffney, Barnabas. Vol. 7, p. 225.

Kirkwood, S. J., Secretary. Sept. 10, 1881. O. W. Inv. File No. 25,384. Ried, Wm. P. O. W. and N. Vol. 3, p. 31.

See PARAGRAPH 13 THIS TITLE; *see, also*, RESTORATION AND RENEWAL.

22. RESTORATIONS.

(For law *see* sections 5 and 6, act of March 9, 1878, paragraph 24 this title: *see, also*, title Restoration and Renewal.)

23. REVOLUTIONARY WAR.

(For law *see* section 4712, Revised Statutes, paragraph 19 this title, and sections 4742 and 4743, and the last proviso to section 6, act of March 9, 1878, paragraph 24 this title.)

DECISIONS OF THE SECRETARY OF THE INTERIOR AND ATTORNEY-GENERAL.

(1) Terminated at the ratification of the treaty of peace, April, 1783.

Wirt, William, Attorney-General. Feb. 12, 1825. Decisions of Attorneys-General. Vol. 1, p. 701. Mayo and Moulton, p. 356.

(2) Where soldier or widow of soldier, in his or her lifetime, made claim for pension which was disallowed and afterwards found to be admissible under existing laws, the claimants having died, the children are not entitled. (2) In case where pension was allowed and after decease it was found that the pensioner was entitled to a higher rate, the children are not entitled to such increased rate. (3) In a case where pension has been allowed and application for increase disallowed, and it afterward appears that the adverse action was erroneous, the children are not entitled to the increase.

Opinion of the Attorney-General. Sept. 5, 1862. Vol. 2, p. 167. [See, also, Opinions of Attorneys-General. Vol. 10, p. 346.]

(3) The remarriage of a widow of a Revolutionary soldier is no bar to pension, provided claimant is a widow at time of application.

Delano, C., Secretary. Jan. 7, 1875. O. W. wid. File No. 27,678. Perkins, Maria, former widow of Ham, Drury. Vol. 3, p. 424.

OLD WARS—Continued.

24. TITLE.

MILITARY PEACE ESTABLISHMENT PRIOR TO THE CIVIL WAR.

[NOTE.—The old laws introduced herein, or referred to as not re-enacted in the Revised Statutes, are still in force, not having been repealed by section 5596, for the reason that no portion of them was embraced in the Revised Statutes; or, if repealed by the terms of that section, are held to be still in force under the provisions of section 5597, Revised Statutes, to wit: "The repeal of the several acts embraced in said revision shall not affect any act done or any right accruing or accrued," &c. See Decision (3) Paragraph 15, Title Bounty-land.]

Act of Congress approved March 16, 1802, Section 14.

And be it further enacted, That if any officer, non-commissioned officer, musician, or private in the corps composing the peace establishment, shall be disabled by wounds or otherwise, while in the line of his duty, in public service, he shall be placed on the list of invalids of the United States, at such rate of pay, and under such regulations, as may be directed by the President of the United States for the time being: *Provided, always*, That the compensation to be allowed for such wounds or disabilities, to a commissioned officer, shall not exceed, for the highest rate of disability, half the monthly pay of such officer at the time of his being disabled or wounded; and that no officer shall receive more than the half pay of a lieutenant-colonel; and that the rate of compensation to non-commissioned officers, musicians, and privates shall not exceed five dollars per month: *And provided, also*, That all inferior disabilities shall entitle the person so disabled to receive an allowance proportionate to the highest disability.

Apr. 30, 1790, sec. 11; Mar. 3, 1795, sec. 13; May 30, 1796, sec. 19; see also, Mar. 5, 1792, sec. 11; Mar. 2, 1799, sec. 3; Apr. 12, 1808, sec. 5; and Mar. 3, 1815, sec. 7.

[NOTE.—The above provision is not re-enacted in the Revised Statutes.]

Act of Congress approved March 16, 1802, Section 15.

And be it further enacted, That if any commissioned officer in the military peace establishment of the United States [or "of the militia, or of any volunteer corps," act of August 2, 1813, sec. 1] shall, while in the service of the United States, die, by reason of any wound received in actual service of the United States, and leave a widow, or if no widow, a child or children under sixteen years of age, such widow, or if no widow, such child or children shall be entitled to and receive half the monthly pay to which the deceased was entitled at the time of his death, for and during the term of five years. But in the case of the death or intermarriage of such widow before the expiration of the said term of five years, the half pay, for the remainder of the time, shall go to the child or children of such deceased officer: *Provided, always*, That such half-pay shall cease on the decease of such child or children.

See also, Mar. 3, 1815, sec. 7; Apr. 12, 1808, sec. 5; Aug. 2, 1813, sec. 1; see Feb. 24, 1814 sec. 2.

[NOTE.—The above provision is not re-enacted in the Revised Statutes.]

[NOTE.—No provision was made for the widows or minor children of the *enlisted men* of the *Regular Army* until the act of July 21, 1848, as amended by the act of Feb. 22, 1849, and then only for widows and minor children of the soldiers of the Mexican war. The first act providing generally for the widows and minor children of enlisted men of the Regular Army was that of Feb. 3, 1863.]

OLD WARS—Continued.**Section 1639, Revised Statutes.**

If any person, whether officer or soldier, belonging to the militia of any State, and called out into the service of the United States, be wounded or disabled while in actual service, he shall be taken care of and provided for at the public expense.

8 May, 1792, c. 33, s. 9, v. 1, p. 273; 23 Mar., 1796; 25 Apr., 1808, sec. 4; 10 Apr., 1812, sec. 3; 2 Aug., 1813, sec. 2; 24 Apr., 1816, sec. 3; 19 Mar., 1836, sec. 4.

[NOTE.—This section is so indefinite that it cannot be applied to the settlement of pension claims. It is, however, the only provision in the Revised Statutes covering in any manner the old laws which granted *invalid pensions* to the militia who served in time of peace or war, except the Florida Indian war and the Mexican war.]

Act of Congress approved April 24, 1816, Section 3.

And be it further enacted, That all laws and regulations relating to the admission of the officers and soldiers of the Regular Army to be placed on the pension roll of the United States, shall, and they are hereby declared to, relate equally to the officers and soldiers of the militia, whilst in the service of the United States.

[Not re-enacted in the Revised Statutes.]

MILITARY PEACE ESTABLISHMENT, SUBSEQUENT TO THE CIVIL WAR.

See SECTION 4694, REVISED STATUTES, LINE OF DUTY, *par.* 19.

PERIOD OF WARS, PRIOR TO THE CIVIL WAR.

[NOTE 1.—The peace establishment acts provided pensions for the permanent portion of the Regular Army, both in peace and war, and the provisions of those acts were extended by other acts to the additional regular troops raised in time of war.]

Jan. 11, 1812, sec. 14; Apr. 8, 1812, sec. 2; Jan. 29, 1813, sec. 10; June 15, 1832, sec. 4; Mar. 2, 1833, sec. 3.

[NOTE 2.—The provisions of the peace establishment acts were also extended to the rangers, volunteers, militia, and sea fencibles called into service during the war with Great Britain in 1812-'15, and to the rangers, volunteers, and militia in service in the Black Hawk Indian war in 1832.]

Jan. 2, 1812, sec. 4; Feb. 6, 1812, sec. 5; July 5, 1813, secs. 1, 2; Apr. 16, 1816, sec. 1; *see, especially*, Apr. 24, 1816, sec. 3; also *see* 15 June, 1832, secs. 1-4.

[NOTE 3.—The same provisions as were contained in the peace establishment acts were made for pensions to the militia and volunteers disabled by *wounds* in General Harrison's campaign on the Wabash against hostile Indians in 1811, in Indian and other disturbances in 1836-'38, and to Cherokee warriors in the service of the United States in the war with Great Britain and Southern Indians in 1812-'15.]

Apr. 10, 1812, sec. 3; May 23, 1836, sec. 5; Apr. 14, 1842, sec. 1.

[NOTE 4.—The provisions of the military establishment acts referred to above, with the acts extending the same to the regular troops, volun-

OLD WARS—Continued.

teers, and militia employed in time of war were not re-enacted in the Revised Statutes.]

FLORIDA INDIAN WAR, 1835-1842.**Section 1656, Revised Statutes.**

When any officer, non-commissioned officer, artificer, or private of the militia or volunteer corps dies in the service of the United States, or in returning to his place of residence after being mustered out of service, or at any time in consequence of wounds received in service, and leaves a widow, or if no widow, a child or children under sixteen years of age, such widow, or if no widow, such child or children, shall be entitled to receive half the monthly pay to which the deceased was entitled, at the time of his death, during the term of five years; and in case of the death or intermarriage of such widow before the expiration of five years, the half pay for the remainder of the time shall go to the child or children of the decedent. And the Secretary of the Interior shall adopt such forms of evidence, in applications under this section, as the President may prescribe.

Mar. 19, 1836, sec. 5; Apr. 10, 1812, sec. 2; Apr. 16, 1816, sec. 1; Mar. 3, 1817, sec. 1; July 418, 36, sec. 1; Mar. 3, 1837, sec. 1.

[NOTE.—It is evident from the marginal references in the Revised Statutes opposite the preceding section (19 Mar. 1836, c. 44, s. 5, v. 5, p. 7), as well as from the language of the next section (1657), that section 1656 was intended to be a re-enactment of section 5, act of Mar. 19, 1836, in which act, as shown in its 6th section, it was intended to provide only for those who served in the Florida Indian war of 1835-1842, and in which the benefits of prior laws were extended to those who so served. Section 1656 has always been looked upon as superfluous, as its provisions are fully covered by the provisions of section 4732, Revised Statutes.]

Section 1657, Revised Statutes.

The volunteers or militia, who have been received into the service of the United States to suppress Indian depredations in Florida, shall be entitled to all the benefits which are conferred on persons wounded or otherwise disabled in the service of the United States.

19 Mar., 1836, sec. 4.

MEXICAN WAR.**Section 4730, Revised Statutes.**

Any officer, non-commissioned officer, musician, or private, whether of the Regular Army or volunteer, disabled by reason of injury received or disease contracted while in the line of duty in actual service in the war with Mexico, or in going to or returning from the same, who received an honorable discharge, shall be entitled to a pension proportionate to his disability, not exceeding for total disability half the pay of his rank at the date at which he received the wound or contracted the disease which resulted in such disability. But no pension shall exceed half the pay of a lieutenant-colonel.

May 13, 1846, sec. 7; July 21, 1848, sec. 2.

OLD WARS—Continued.**Section 4731, Revised Statutes.**

If any officer or other person referred to in the preceding section has died, or shall hereafter die, by reason of any injury received or disease contracted under the circumstances therein set forth, his widow shall be entitled to receive the same pension as the husband would have been entitled to had he been totally disabled; and in case of her death or remarriage, the child or children of such officer or other person referred to in the preceding section, while under the age of sixteen years, shall be entitled to receive the pension. But the rate of pension prescribed by this and the preceding section shall be varied after the twenty-fifth day of July, eighteen hundred and sixty-six, in accordance with the provisions of section four thousand seven hundred and twelve of this Title.

July 21, 1848, secs. 1, 2; Feb. 22, 1849, sec. 1.

WAR OF 1812 AND INDIAN WARS.**Section 4732, Revised Statutes.**

The widows and children under sixteen years of age, of the officers, non-commissioned officers, musicians, and privates of the regulars, militia, and volunteers of the war of one thousand eight hundred and twelve, and the various Indian wars since one thousand seven hundred and ninety, who remained at the date of their death in the military service of the United States, or who received an honorable discharge and have died or shall hereafter die of injury received or disease contracted in the service and in the line of duty, shall be entitled to receive half the monthly pay to which the deceased was entitled at the time he received the injury or contracted the disease which resulted in his death. But no half-pay pension shall exceed the half-pay of a lieutenant-colonel, and such half-pay pension shall be varied after the twenty-fifth day of July, one thousand eight hundred and sixty-six, in accordance with the provisions of section four thousand seven hundred and twelve of this Title.

July 4, 1838, sec. 1; July 21, 1848, secs. 1, 2, 3; Feb. 22, 1849, sec. 1; Feb. 3, 1853, sec. 1, proviso 3; June 2, 1858, sec. 1; see, also, Apr. 10, 1812, sec. 2; Apr. 16, 1816, sec. 1.

CONTINUATION OF THE FIVE YEARS' HALF-PAY PENSIONS FOR LIFE.**Section 4725, Revised Statutes.**

All those surviving widows and minor children who have been allowed five years' half pay, under the provisions of any general laws passed prior to the third day of June, eighteen hundred and fifty-eight, are granted a continuance of such half pay, to commence from the date of the last payment under the respective acts of Congress, granting the same, and the terms and limitations provided in the following section.

June 3, 1858, sec. 1.

OLD WARS—Continued.**Section 4726, Revised Statutes.**

Such half pay is granted to such widows during life, and, where there is no widow, to the children while under the age of sixteen years; but in case of the remarriage or death of any such widow, the half pay shall go to the children of the decedent on account of whose services it is claimed, while such children are under sixteen years of age, and no longer.

June 3, 1858, sec. 1.

[NOTE.—Prior to July 4, 1864, old war widows who had remarried were allowed pensions under the act of August 5, 1854, except for any period under coverture, provided they were widows at the time of application, and pensions so allowed have never been discontinued.]

Mar. 2, 1837, sec. 1; Aug. 5, 1854, sec. 3.

Section 4727, Revised Statutes.

The half pay of such widows and children shall be half the monthly pay of the officers, non-commissioned officers, musicians, and privates of the infantry of the Regular Army, and no more, and no greater sum shall be allowed to any such widow or minor children than the half pay of a lieutenant-colonel. But the two preceding sections shall not be construed to apply to or embrace the case of any person receiving a pension for life on the third day of June, eighteen hundred and fifty-eight; and wherever half pay has been granted by any special act of Congress, and renewed or continued under the provisions of those sections, the same shall continue from the date above named: *Provided*, That pensions under this and the two preceding sections shall be varied in accordance with the provisions of section four thousand seven hundred and twelve of this Title.

June 2, 1858, sec. 1.

REVOLUTIONARY CLAIMS.**Section 4742, Revised Statutes.**

From and after the second day of April, eighteen hundred and sixty-two, no claim for a pension, or for an increase of pension, shall be allowed in favor of the children or other descendants of any person who served in the war of the Revolution, or of the widow of such person, when such person or his widow died without having established a claim to a pension.

Apr. 2, 1862.

Section 4743, Revised Statutes.

In all cases where a pension has been granted to any officer or soldier of the Revolution in his life-time, the evidence upon which such pension was granted shall be conclusive of the service of such officer or soldier in the application of any widow, or woman who may have been the widow, of such officer or soldier, for a pension; and upon proof by her that she was married to any such officer or soldier and that she is

OLD WARS—Continued.

a widow, she shall thereupon be placed upon the pension-rolls at the same rate that such officer or soldier received during his life-time.

Resolution July 1, 1848.

See also THE SECOND PROVISIO TO SECTION 6 FOLLOWING.

RESTORATION OF PENSIONS.

Act of Congress approved March 9, 1878.

SEC. 5. That the Secretary of the Interior be, and he is hereby, authorized and directed to restore to the pension-rolls the names of all persons now surviving heretofore pensioned on account of service in the war of 1812 against Great Britain or for service in any of the Indian wars, and whose names were stricken from the rolls in pursuance of the act entitled "An act authorizing the Secretary of the Interior to strike from the pension-rolls the names of such persons as have taken up arms against the Government or who have in any manner encouraged the rebels," approved February 4, 1862; and that the joint resolution entitled "Joint resolution prohibiting payment by any officer of the Government to any person not known to have been opposed to the rebellion and in favor of its suppression," approved March 2, 1867, and section 4716 of the Revised Statutes of the United States, shall not apply to the persons provided for by this act: *Provided*, That no money shall be paid to any one on account of pensions for the time during which his name remained stricken from the rolls.

SEC. 6. That the surviving widow of any pensioner of the war of 1812, where the name of said pensioner was stricken from the pension-rolls in pursuance of the act entitled "An act authorizing the Secretary of the Interior to strike from the pension-rolls the names of such persons as have taken up arms against the Government or who have in any manner encouraged the rebels," approved February 4, 1862, and where, under the existing provisions of law, said pensioner died without his name being restored to the rolls, shall be entitled to make claim for a pension as such widow after the passage of this act: *Provided*, That no such arrearages shall be paid for any period prior to the time of the removal of the disability of the pensioner, as provided in section five: *And provided further*, That under this act any widow of a Revolutionary soldier who served for fourteen days or was in any engagement shall be placed on the pension-rolls of the United States and receive a pension at the rate of \$8 per month.

WARS SINCE THE CIVIL WAR.

See TITLE OR RIGHT TO PENSION.

25. WARS AND LOCAL DISTURBANCES.

See WARS AND LOCAL DISTURBANCES, &C.

OLD WARS—Continued.

26. WIDOWS.

(For law see paragraph 24 this title.)

DECISIONS OF THE SECRETARY OF THE INTERIOR.

(1) The death of a soldier cannot be presumed, but must be proven to entitle his widow.

Smith, C. B., Secretary. Sept. 18, 1861. O. W. Wid. Ref. No. 14,557. Grant, Waty, widow of William. Not recorded. On file in the case.

[NOTE.—This soldier enlisted in the Regular Army and was said to have been missing at the time Buffalo was destroyed by the English and Indians in December, 1813, and was not heard of after that date. There was no record of his death, and the widow was unable to furnish any proof of that fact.]

(2) Where the death of a soldier occurred after March 4, 1861, if the death cause originated prior to that date, the widow would be entitled to pension under ante-rebellion laws.

Delano, C., Secretary. Apr. 17, 1874. Old act Navy Widow. File No. 807. Cunningham, Ann H. Vol. 3, p. 174.

(3) The widow of a soldier who has or shall hereafter die of disease contracted in the military service prior to March 4, 1861, is not entitled to pension on account of such death unless its cause originated in some war.

Gorham, Charles T., Acting Secretary. Oct. 12, 1876. O. W. Wid. Ref. No. 18,219. Stoll, Heater, widow of Urban. Vol. 4, p. 419.

Gorham, Charles T., Acting Secretary. Oct. 13, 1876. O. W. Wid. File No. 27,785. Devlin, Ellen. Vol. 4, p. 420.

Gorham, Charles T., Acting Secretary. Oct. 13, 1876. O. W. Ref. No. 17,267. Race, Henry, minor of. Vol. 4, p. 432.

Schurz, C., Secretary. May 4, 1877. Ctf. No. 177,875. Late War. Silvey, Isabella H., widow of William. Vol. 5, p. 103.

Kirkwood, S. J., Secretary. June 21, 1881. O. W. Wid. Ref. No. 20,498. Herron, Mary, widow of Michael. Vol. 8, p. 317.

Joelyn, M. L., Acting Secretary. Aug. 16, 1884. O. W. Wid. Ref. No. 21,827. Squib, Sarah, widow of John K. Vol. 11, p. 334.

See PARAGRAPH 23 THIS TITLE AND WIDOWS.

ORDERS OF THE COMMISSIONER OF PENSIONS.

Orders relating to the adjudication of pension and bounty-land claims and to the order and discipline of the clerical force of the Pension Office.

1. September 24, 1866. See ATTORNEYS.

2. December 1, 1866. See CORRESPONDENCE.

3. May 6, 1867.

No officer or employé to leave during office hours without permission from Commissioner, chief clerk, or chief of division.

Employés to keep an account of their absence and its cause on the blanks supplied to their respective rooms, and the chief of division to

ORDERS OF THE COMMISSIONER OF PENSIONS—Continued.

forward to the chief clerk a consolidated report at the expiration of each week.

4. July 10, 1868. See **CORRESPONDENCE**.
5. December 17, 1868. See **CORRESPONDENCE**.
6. February 14, 1870. See **MEDICAL EXAMINATIONS**.
7. July 5, 1871. See **INCREASE, (INVALID.)**
8. July 12, 1871. See **COMMISSIONER OF PENSIONS**.
9. August 23, 1871. See **CORRESPONDENCE**.
10. October —, 1871. See **DECLARATIONS, FORMAL AND INFORMAL**.
11. November 18, 1871. See **DECLARATIONS, FORMAL AND INFORMAL**.
12. December 1, 1871.

Attention of employes is called to the order of the Secretary of the Interior, given under date of August 15, 1865, prohibiting unauthorized persons from visiting the rooms occupied by clerks during office hours, and subjecting the offenders to immediate dismissal from office if a clerk, or suspension from practice if an attorney or claim agent.

Conversing with outside parties relative to the business under the supervision of the Department is also strictly forbidden, under penalty of being removed from office.

13. February 16, 1872.

The professional standing and character of attesting or family physician testifying in widows' claims shall, when deemed advisable by chiefs of divisions, be verified by a pension examining surgeon, or by such other competent person or persons as may be satisfactory.

14. February 16, 1872.

Whenever a jacket becomes ragged or too small to contain the papers belonging therein, the case must be rejacketed, and a reference to the condition of the case and the indorsements upon the old jacket must be indorsed upon the new one by the examiner in charge.

15. February 16, 1872. See CORRESPONDENCE.

16. (No date.)

All applications must be numbered, and their receipt acknowledged. And they must be acted on in their turn, and not to be taken up out of their order, except by special direction of the Commissioner.

17. (No date.) See INDIANS' CLAIMS.

18. March 20, 1872.

No papers filed in any claim in this office shall be sent or delivered to any member of Congress, clerk of any committee, attorney,

ORDERS OF THE COMMISSIONER OF PENSIONS—Continued.

or other person ; but all such papers, when called for by any member of Congress, shall be transmitted to the committee by mail or by the clerk, upon order of the chairman of said committee, from the desk charged with such duty.

19. April 9, 1872. See **CORRESPONDENCE**.

20. April 17, 1872.

No interview for the purpose of obtaining information in connection with claims on file in this office shall be granted by an employé to any person whatever (except members of Congress and the clerks of the office on official business) without a written permit from the Commissioner, deputy commissioner, or chief clerk.

21. (No date.)

That no erasure shall hereafter be made of any writing or printing upon any "brief" or other official paper pertaining to any claim filed or adjudicated, except by such a line or lines, drawn through the writing or printing, the correction or expunging of which is designed, as will permit the reading with distinctness of that which is erased.

22. September 23, 1872.

All indorsements upon briefs and all other official papers by whomsoever made must be dated at the time of the indorsement.

23. December 4, 1872. See **CORRESPONDENCE**.

24. December 9, 1872. See **INCREASE, ACT OF JUNE 8, 1872**.

25. August 8, 1873. See **EVIDENCE, RECORD**.

26. August 22, 1873. See **PENSION CERTIFICATES**.

27. September 17, 1873.

Hereafter every employé returning from leave of absence will immediately report in writing to the chief of his division the fact of his return to duty. This report will be forwarded by the chief of division to the chief clerk.

The failure of employés of this office to report for duty promptly on the expiration of leave is an abuse which must be corrected.

The pay for any period during which an employé may be absent without leave will be deducted from his salary.

28. January 17, 1874. See **OVERPAYMENT**.

29. January 21, 1874. See **DISLOYALTY**.

30. September 30, 1874. See **MINORS**.

31. December 15, 1874. See **ATTORNEYS**.

32. May 10, 1875. See **CORRESPONDENCE**.

33. June 2, 1875. See **CORRESPONDENCE**.

ORDERS OF THE COMMISSIONER OF PENSIONS—Continued.

34. November 6, 1875. See BOUNTY-LAND.

35. December 9, 1875. See SUSPENSION OF PENSIONS.

36. December 17, 1875.

All calls for cases, or requests for information, by any of the pension committees of Congress, except such as may pertain to the duties of the appointment clerk, will immediately, upon the receipt thereof, be referred to the clerk in charge of the appeal desk, whose duty it is to see that all such calls or requests are attended to promptly, and to call upon said committees for any information necessary in the adjudication of claims before this office.

37. January 22, 1876. See MEDICAL EXAMINATIONS.

38. January 28, 1876. See BOUNTY-LAND. (LOYALTY.)

39. February 10, 1876.

Whenever call is made for a case, and it should appear that it is not found upon the records of this office, such fact must be shown over the signature of the chief of the respective division, to secure more careful search and prevent the frequent occurrence of erroneous reports.

40. February 16, 1876. See CORRESPONDENCE.

41. April 11, 1876.

In the adjudication of claims for pension and bounty-land, the service of officers and enlisted men who testify as to the origin of disease or other facts relative to the service of the soldier should be referred to the proper department for verification. The verification of signatures of officers and enlisted men will not be required, except at the discretion of chiefs of division.

42. April 15, 1876. See CORRESPONDENCE.

43. April 27, 1876. See RESTORATION AND RENEWAL.

44. June 13, 1876. See CORRESPONDENCE.

45. (No date.)

Application for leave of absence for more than one day to be addressed to the Secretary of the Interior upon blanks furnished and filed with the chief clerk.

Applications for leave for a single day will be addressed to the Commissioner in writing. All applications will be forwarded through the chiefs of division with his recommendation.

Leaves of absence for less than one day will be granted, as heretofore, by the chief of division, of which he will make a record.

46. August 21, 1876.

The Military State Agency of Massachusetts, heretofore held by Col. Gardiner Tufts, for the prosecution of claims before this office, having

OLDERS OF THE COMMISSIONER OF PENSIONS—Continued.

been discontinued, and the duties transferred to the surgeon-general's office of Massachusetts, by order of the governor of that State, at his request all communications relating to claims heretofore filed through the aforesaid State agency will be addressed to the surgeon-general of Massachusetts.

47. December 16, 1876.

In compliance with the directions of the honorable Secretary of the Interior, that George E. Lemon, of this city, be recognized in all cases wherein B. F. Pritchard, of Indianapolis, Ind., is the attorney of record, and in which the following appears:

First. That such claims were filed in this office prior to October 16, 1876.

Second. That Mr. Pritchard has the power of substitution therein.

Third. That Mr. Lemon files therein a printed copy of the general power of attorney given to him by Mr. Pritchard, together with a request that he be recognized as the substituted attorney.

A copy of the general power of attorney will be furnished to each division for comparison with the copies.

48. January 16, 1877. See PAYMENT OF PENSIONS.**49. January 18, 1877. See CORRESPONDENCE.****50. July 24, 1877. See PAYMENT OF PENSIONS.****51. August 14, 1877. See SPECIAL ACTS.****52. September 22, 1877.**

A "lunch-time," from 12.30 to 1 o'clock p. m., is established in this Bureau.

The personal time report will not hereafter be required. Each clerk and employé of the Bureau arriving at the office later than five minutes after nine in the morning, or returning from lunch after time, will deliver to the watchman in attendance a card bearing his name, with the time of such arrival.*

Such as desire to be absent at any time, other than that established for lunch, between the hours of 9 a. m. and 4 p. m., except on Saturday, and on that day between 9 a. m. and 3 p. m., must enter their names, with the hour of their departure, and the time they propose to be absent, in a book, kept by the chief of the division, who will furnish them with a card, which stamped card will be surrendered to the watchman on passing out. On return, report must be made in person to the chief of division.*

53. October 4, 1877.

By direction of the Secretary of the Interior, hereafter employés of this Bureau will not be admitted to the office rooms at other times than during office hours, except upon passes issued by the chief clerk.

* Revoked March 27, 1895.

ORDERS OF THE COMMISSIONER OF PENSIONS—Continued.

54. December 3, 1878.

That if information from private sources is hereafter required in any case, the necessity thereof must be brought to the attention of the chief of the division in which the case is pending, who will direct how such information shall be obtained.

55. May 27, 1880. See **MEDICAL EXAMINATIONS.**

56. July 9, 1881.

The circulation of office circular dated June 1, 1881, is hereby suspended from and after this date.

57. August 10, 1881. See **PENSION CLAIMS, WHEN THEY MAY BE SAID TO BE ALLOWED.**

58. August 16, 1881.

The force in this office is reorganized, from this date, into the following-named divisions:

1. *Board of Review.*—C. B. WALKER, deputy commissioner in charge; J. H. HOBBS, assistant; to be composed of expert examiners to review all claims before final action is taken by the office. Details for the board will be made by the Commissioner.

2. *Medical Division.*—Dr. T. B. HOOD, Medical Referee, in charge; Dr. N. F. GRAHAM, assistant; to have charge of the work required of examining surgeons; to review their reports, and to determine the degree of pensionable disability found in invalid claims; and to perform such other duties touching medical and surgical questions as the interests of the service may demand.

3. *Division of Special Examinations.*—H. R. MCCALMONT, chief; W. E. DULIN, assistant; to have charge of claims requiring special examination in vicinity of claimant and witnesses; to direct the method of inquiry by responsible examiners; to have charge of all matters pertaining to attorneys practicing before the office; to keep a record of the official character of notaries and justices of the peace, and to aid in prosecuting offenders against the pension law.

4. *Old War and Navy Division.*—W. H. WEBSTER, Chief; T. W. DALTON, assistant; to have charge of the settlement of all claims on account of service in wars prior to March 4, 1861; claims on account of service in the regular Army and the Navy, and in all other general organizations not belonging especially to any State or Territory.

5. *Eastern Division.*—FRED. MACK, Chief; J. M. CURTIS, assistant; to have charge of the settlement of all claims arising out of military service during the late war in organizations from the several New England States, and, also, from the States of New York, New Jersey, and Delaware.

6. *Middle Division.*—F. D. STEPHENSON, Chief; A. F. KINGSLEY, assistant; to have charge of the settlement of late war claims on ac-

ORDERS OF THE COMMISSIONER OF PENSIONS—Continued.

count of military service in organizations belonging to the States of Pennsylvania, Ohio, and Michigan.

7. *Western Division*.—JOHN M. COMSTOCK, Chief; D. A. MCKNIGHT, assistant; to have charge of the settlement of late war claims on account of military service in organizations belonging to the States of Indiana, Illinois, Iowa, Wisconsin, Minnesota, Nebraska, Kansas, Nevada, Colorado, California, Oregon, and the several Territories.

8. *Southern Division*.—L. E. DICKEY, Chief; J. D. SMITH, assistant; to have charge of the settlement of claims arising out of military service during the late war in organizations belonging to the States of Maryland, Virginia, West Virginia, North Carolina, South Carolina, Florida, Georgia, Alabama, Mississippi, Louisiana, Texas, Kentucky, Tennessee, Missouri, Arkansas, and the District of Columbia, and the several organizations of colored troops.

9. *Record Division*.—W. T. FORD, Chief; E. E. FULLER, assistant; to have charge of the recording and numbering of the claims as they are received in the office, and to have custody of the records; and to brief the evidence filed to secure its transmission to appropriate claims.

10. *Certificate and Account Division*.—FRANK MOORE, Chief; M. B. JOHNSON, assistant; to have charge of the issuing, numbering, and recording of certificates granting pensions, and designating the agency at which payable; also, to audit accounts, under section 4718, Revised Statutes, for expenses of last sickness and burial of pensioners.

11. *Agents' Division*.—C. F. SAWYER, Chief; to have charge of the disbursement of pension funds, and of all correspondence with the several pension agents, and accounting officers of the Treasury, in reference to official action of this office.

12. *Mail Division*.—DAVID L. GITT, Chief; JOHN RICHMOND, assistant; to have charge of the stamping, recording, and proper distribution of all mail coming to the office, and of the proper dispatch of the mail going out; also, to have charge of jacketing and briefing the jacket of claims received.

13. The CHIEF CLERK, A. W. FISHER, shall have immediate control and supervision of all clerks and employes not specially assigned to any of the above-named divisions, as well as the general oversight of the clerical force of the office. He shall receive from the chiefs of divisions a monthly report of the numbers, efficiency, and general attention to duty of the clerks under their charge, and of the condition of the work in their respective divisions, and he shall make a consolidated report to the Commissioner, at the end of each month, showing the condition of the business of the office and its clerical force.

14. Mr. J. W. HOWELL is designated as appointment and financial clerk, and will, under the chief clerk, have supervision of all public property, keep the accounts between the office and the various appropriations for clerical and contingent expenses, and report through the

ORDERS OF THE COMMISSIONER OF PENSIONS—Continued.

chief clerk to the Commissioner, upon the first of each month, a balance-sheet showing the exact condition of each fund at the close of the preceding month; and shall prepare such estimates and reports as may be called for by the Commissioner from time to time.

Mr. A. VANGEUDEER shall have charge of the work of the office pertaining to cases once adjudicated, of such miscellaneous inquiries as may be referred to him by the Commissioner or chief clerk, and of the clerical force assigned to assist him in the performance of these duties.

All orders conflicting with the foregoing are hereby rescinded.

ORDER No. 58. Amended May 15, 1885, by adding the following:

15. Army and Navy Survivors' Division.—To have charge of the correspondence and files pertaining to the collection and preservation, for office use, of the names and post-office addresses of survivors of the Army and Navy who served during the late war.

59. August 20, 1881.

Matters of fact, and the judgment of the office upon them, as well as the ascertainment of the character and reliability of testimony and credibility of witnesses, are questions solely for the adjudicating divisions; and the papers in the case, together with the brief, are to be transmitted to the Review Board for review. The sole function of the Review Board is to treat cases judicially, upon the papers, and after a finding upon the law and the facts, cases are then to be referred to the Medical Referee, for his decision upon the medical questions involved, based upon such finding, and he shall then return the same to the Review Board, with his opinions, for its final report.

60. August 22, 1881. See CORRESPONDENCE.

61. September 12, 1881. See REIMBURSEMENT.

62. September 13, 1881.

It is hereby ordered that in all cases submitted for review, the brief shall embody the facts, essential points, character and weight of all evidence, including mention by name of all persons testifying, certifying, or making statements, and a reference to all the papers to be examined by the reviewers, except the reports of the Adjutant-General, Surgeon-General, examining surgeons, and certificates of disability, which must be attached to the brief. All papers in a case which are not to be considered by the reviewer shall be collected together in a separate jacket. The brief shall show the date of filing of all the evidence, whether official reports, certificates, affidavits, statements, or reports of the War Department as to the "presence or absence" of applicants, which dates are to be noted in red ink immediately following the name of the person testifying. If a report of the Division of Special Examination accompanies a case, a reference to the same, with the date of filing,

ORDERS OF THE COMMISSIONER OF PENSIONS—Continued.

shall appear on the brief. If an admitted case is resubmitted to the Board of Review upon a report from the Division of Special Examination, a new half face shall be attached to the original brief. In all cases it shall appear whether the case is submitted for admission or rejection; if submitted for admission, there shall be entered on the brief the words "submitted for admission"; if for rejection, the words "submitted for rejection," and the examiner may, if he desire, give briefly his reasons for his action in the premises. Whenever a case is ready for submission, the examiner shall brief and return the same to the chief of his division for submission to the Board of Review.

Chiefs of divisions are intrusted with the execution of this order.

63. September 13, 1881.

To settle the practice of the office, and to enable all to understand the course of procedure in adjudicating claims, it is announced:

1. On the filing of a claim, its receipt will be acknowledged; it will be stamped, jacketed, the jacket correctly briefed in mail division, and sent by the next day to the record division, where it will be immediately numbered and forwarded the same day, or as soon as possible, to the adjudicating division to which it belongs, or, if there is an attorney appointed, to the division of special examination, where the standing of the attorney will be properly indorsed, and claim sent same day to adjudicating division.

2. In the adjudicating division the claim will be at once examined as to proper execution of the declaration and sufficiency of the allegations.

If insufficient, claimant and attorney will be so notified, and the case will be sent to rejected files. If sufficient, claimant and his agent will be informed of the number, and that the claim will be adjudicated as as soon as possible. The proper calls will at once be made on Adjutant-General and Surgeon-General, and the invalid claimant will be ordered for examination. On receipt of reports from Adjutant-General and Surgeon-General, the case will be assigned to an examiner as soon as practicable, who shall at once call, through the attorney, for all the evidence necessary to complete the claim, notifying him that the office is then ready to consider the case and the evidence thereafter filed. The year of neglect on the part of the agent or attorney in the case to reply to the call of the office, will begin from the date of this order. The examiner will briefly and plainly note on the jacket the date of such call and the character of such notice.

3. When the evidence is complete the examiner shall brief the case and submit it for "admission" or "rejection" in accordance with order No. 62. The chief of the division shall then send such adjudicated case to the Board of Review, and, unless the case is sent back to him as improperly submitted, his connection with such claim shall then cease. If improperly submitted the claim will be readjudicated.

ORDERS OF THE COMMISSIONER OF PENSIONS—Continued.

4. The Board of Review will, in accordance with order No. 59, review such adjudication, and return to chief of proper division all claims improperly submitted, and such as are rejected, and properly rate, after medical review, all submitted cases and send the same to the certificate and account division.

5. Certificate and Account Division will make proper record, have certificate, order to inscribe, and notice to claimant and agent properly made and sent out without delay.

6. Should an appeal be taken from an adverse decision of this office, the appeal clerk, under the direction of deputy commissioner, will prepare the papers for submission to the Secretary. If the decision is reversed the case will be sent to adjudicating division for action in accordance with decision.

64. September 13, 1881. See **ATTORNEYS**.

65. October 3, 1881. See **REJECTED CLAIMS** and **RECONSIDERATION OF ADJUDICATED CLAIMS**.

66. October 3, 1881. See **SPECIAL CASES**.

67. October 17, 1881. See **ATTORNEYS**.

68. November 16, 1881. See **REIMBURSEMENT**.

69. November 16, 1881.

1st. Immediately after the receipt of invalid claim in adjudicating division, the claimant will be ordered for examination.

2d. Chiefs of divisions will also order for examination as soon as practicable all invalid claimants whose claims have been filed since June 30, 1880.

70. December 9, 1881.

Certificates of notaries public hereafter filed will not be recognized by this office unless the official character and term of office of the notary be shown by certificate under seal of secretary of state, or under seal of court of record.

This order will not apply to notaries in the District of Columbia.

71. December 28, 1881.

Hereafter information as to the condition of claims pending in this office will be given only to the claimant, to his recognized agent, to members of Congress and to heads of Bureaus.

72. December 18, 1881.

George E. Lemon will be recognized as the attorney in claims filed by Gilmore & Co., under conditions set forth in the following letter of the honorable Secretary:

"I have considered the request of George E. Lemon, of this city, to be recognized as attorney, under a power of substitution from Charles

ORDERS OF THE COMMISSIONER OF PENSIONS—Continued.

D. Gilmore, a disbarred attorney, in certain pending pension cases in which the power of attorney was originally given to said Gilmore and in cases in which Gilmore was attorney as the assignee and surviving partner of the firms of Chipman, Hosmer & Co., Hosmer & Co., and Gilmore & Co.

"It appears from your statement relative to the case that at the time Mr. Gilmore was disbarred from practice as an attorney before this Department, April 14, 1880, he had in his possession much evidence material to the prosecution of pension claims, and that Mr. Lemon, who is an attorney in good standing, has purchased the unsettled pension business of said Gilmore, subject to the sanction of this Department to such transfer.

"You give the opinion that such transfer will materially assist claimants in the settlement of their claims.

"In view of the circumstances of this case, the Department authorizes you to recognize Mr. Lemon in cases in which Mr. Gilmore, if he were in good standing, would have the right to substitute Mr. Lemon as attorney upon the following additional conditions:

"1st. That such claims were filed in the Pension Office prior to April 14, 1880, or within thirty days thereafter.

"2d. That said Gilmore was not himself a substitute, but held an original power of attorney from the claimant, with full power of substitution.

"3d. That the consent of such claimants to such transfer, in writing, shall be furnished the Commissioner of Pensions, and in cases where signatures are made by mark, that the same shall be witnessed by a township, county, State, or United States officer.

"4th. That said George E. Lemon shall file a printed copy of the general power of attorney or transfer given him by said Gilmore, in each case, which shall set out specifically, by number, name, and service, the claim so transferred.

"5th. That in the prosecution of said claims, said Lemon shall agree, in each case, that he will employ no person as a sub-agent or correspondent therein who is disqualified in any manner from practicing before this Department.

"In authorizing this transfer the Department does not set aside the general rule which prohibits a suspended or disbarred attorney from substituting another attorney, but acts solely with reference to what is believed to be the advantage of the applicant whose interests are affected."

73. January 19, 1882.

1st. All communications to this office in relation to any claim pending therein, or other matter pertaining thereto, should be addressed to the Commissioner, one of the Deputy Commissioners, or Chief Clerk.

ORDERS OF THE COMMISSIONER OF PENSIONS—Continued.

Communications addressed to any other officer or employé of the Bureau in relation to any business of the office must be referred to one of the officers named above before any action by the office is taken thereon.

2d. All official communications from the Pension Office will be made in the name of the Commissioner or Acting Commissioner of Pensions, except the special correspondence of the Medical Referee, as provided in Order No. 42.

3d. All communications written by employés of the Bureau on official business to the Commissioner should be sent to the Chief Clerk's desk.

4th. All questions as to the distribution or discipline of the force of the office should be referred to the Chief Clerk.

74. January 20, 1882. See **PRESUMPTION OF DEATH, and PRESUMPTION OF FACT.**

75. February 4, 1882. See **MEDICAL EXAMINATIONS.**

76. March 6, 1882. See **SPECIAL EXAMINERS AND SPECIAL EXAMINATIONS.**

77. March 15, 1882. See **EXAMINING SURGEONS.**

78. April 22, 1882. See **FEEES OF AGENTS AND ATTORNEYS.**

79. April 26, 1882. See **FEEES OF AGENTS AND ATTORNEYS.**

80. April 26, 1882. See **MEDICAL EXAMINATIONS AND RATES OF PENSIONS.**

81. May 13, 1882. See **REIMBURSEMENT.**

82. May 31, 1882. See **PENSION CLAIMS, WHEN THEY MAY BE SAID TO BE ALLOWED.**

83. May 31, 1882. See **ATTORNEYS.**

84. July 12, 1882.

When a chief of division in which a claim is adjudicated disagrees to the requirements of the Review Board, he may appeal therefrom through the chief of Board of Review to the Commissioner for his instructions.

Honest difference of opinion concerning the merits of any point in a case arising between the examiner and chief of division or reviewer, or between either two of them, may be referred to the Commissioner or one of the deputy commissioners for decision—each party stating in writing clearly and concisely the points at issue.

85. July 13, 1882. See **REIMBURSEMENT.**

86. July 31, 1882. See **FEEES OF AGENTS AND ATTORNEYS.**

87. August 7, 1882.

The following changes in the organization of the office are made in conformity to existing law:

Assistant Chief Clerk, J. W. Howell; *Assistant Medical Referee*, Dr. N. F. Graham; *law clerk*, B. Rixford.

ORDERS OF THE COMMISSIONER OF PENSIONS—Continued.

BOARD OF REVIEW.—J. R. Van Mater, *chief*; J. H. Hobbs, *first assistant*; Theo. Smith, A. E. Rowell, *assistants*.

OLD WAR AND NAVY DIVISION.—W. H. Webster, *chief*; H. W. Hall, N. E. Robinson, *assistants*.

EASTERN DIVISION.—Fred. Mack, *chief*; Lucius Green, E. M. Taber, *assistants*.

MIDDLE DIVISION.—F. D. Stephenson, *chief*; C. M. Bryant, L. E. Payne, *assistants*.

WESTERN DIVISION.—J. M. Comstock, *chief*; R. L. Ford, W. B. Green, *assistants*.

SOUTHERN DIVISION.—L. E. Dickey, *chief*; H. G. Burlingham, J. W. Dulin, *assistants*.

SPECIAL EXAMINATION DIVISION.—H. R. McCalmont, *chief*; W. E. Dulin, John M. Welty, *assistants*.

RECORD DIVISION.—W. T. Ford, *chief*; E. E. Fuller, F. H. Taft, *assistants*.

CERTIFICATE AND ACCOUNT DIVISION.—Frank Moore, *chief*; M. B. Johnson, Mark Tilton, *assistants*.

AGENTS' DIVISION.—C. F. Sawyer, *chief*; J. W. Cole, W. L. Soleau, *assistants*.

MAIL DIVISION.—David L. Gitt, *chief*; John Richmond, S. P. Keller, *assistants*.

MISCELLANEOUS DIVISION.—A. Vangeuder, *chief*; Thomas Shailer, T. F. Sargent, *assistants*.

The miscellaneous division to have charge of the miscellaneous correspondence and clerical work of the office, not belonging to other divisions, that may be referred to it.

88. November 24, 1882. See **CORRESPONDENCE**.

89. December 8, 1882. See **FEES OF AGENTS AND ATTORNEYS**.

90. December 12, 1882. See **CORRESPONDENCE**.

91. December 21, 1882. See **CORRESPONDENCE**.

92. December 21, 1882. See **CLAIMS FOR PENSION FOR DISABILITY, FILED SINCE JUNE 30, 1880**.

93. March 13, 1883.

For the purpose of equalizing the work of the office, the Miscellaneous Division will hereafter have charge of all matters pertaining to attorneys practicing before the office, and keep a record of the official character of notaries and justices of the peace.

All inquiries as to the standing of attorneys, notaries, &c., will hereafter be sent to this division. Order 63 is modified accordingly.

94. April 30, 1883. See **CORRESPONDENCE**.

95. September 3, 1883.

The service in which the first incurred disability is claimed in the first declaration filed, shall be taken to determine the division in which

ORDERS OF THE COMMISSIONER OF PENSIONS—Continued.

the pension claim shall be adjudicated upon all the disabilities alleged, except that claims, in which a disability is alleged to have been contracted in the naval service, shall be sent to the Old War and Navy Division.

96. October 3, 1883. See **FEEES OF AGENTS AND ATTORNEYS.**

97. October 23, 1883. See **ATTORNEYS.**

98. April 28, 1884.

To avoid the inconvenience and delay occasioned by having the criminal work of the office carried on in separate divisions, Order 93 is hereby revoked, and the attorney's desk and work connected therewith is transferred to the Special Examination Division. All inquiries as to the standing of attorneys and notaries will hereafter be sent to that division.

99. June 11, 1884. See **FEEES OF AGENTS AND ATTORNEYS.**

100. June 30, 1884.

The following order of the honorable Secretary, dated the 26th instant, is published for the information and guidance of the office.

W. W. DUDLEY,
Commissioner.

The COMMISSIONER OF PENSIONS:

SIR: Herewith is transmitted to you a power of attorney from N. W. Fitzgerald, N. W. Fitzgerald & Co., S. C. Fitzgerald, and W. T. Fitzgerald to George E. Lemon, and a letter of withdrawal of said parties and firm as pension attorneys, which, under the circumstances and the good standing of George E. Lemon, are approved by me.

You will therefore recognize George E. Lemon as attorney in all cases heretofore represented by said parties and firm according to the terms of the papers herewith filed with you.

And in all cases of transfer from one attorney to another you will recognize such contract as they may make touching attorney fees, &c. It is not material whether the attorney's fees are paid to the original or substituted attorney, provided only one payment is made by the United States pension agent.

H. M. TELLER,
Secretary.

101. July 11, 1884.

By direction of the honorable Secretary of the Interior, that Charles E. Fairman of this city be recognized in all pension claims in which Robert A. Dimmick or Howard & Co. (of which Dimmick is sole surviving partner) are the recognized attorneys having power of substitution. All unpaid fees payable by pension agent that have become due Dimmick or Howard & Co. since October 31, 1883, will be paid to Charles E. Fairman.

ORDERS OF THE COMMISSIONER OF PENSIONS—Continued.

102. July 28, 1884. See PENSION CLAIMS, WHEN THEY MAY BE SAID TO BE ALLOWED.

103. July 30, 1884. See FEES OF AGENTS AND ATTORNEYS.

104. August 12, 1884.

J. P. Wright, of this city, having transferred to A. B. Webb all his interest as attorney in the pension business previously transferred by the said Webb to him, and all his interest in the business transferred to him by the late firm of O. I. Webb & Co., it is therefore ordered, by direction of the Hon. M. L. Joslyn, Acting Secretary of the Interior, that the said A. B. Webb be recognized as the attorney of record in all of the said claims, to whom all communications relating thereto will be addressed.

105. October 7, 1884. See FEES OF AGENTS AND ATTORNEYS.

106. November 26, 1884.

Cases for the consideration of the Commissioner involving questions of law or fact, will be submitted by the chiefs of divisions through the desk of the Second Deputy Commissioner. A written statement of the questions, together with the evidence relating thereto, should be arranged upon the outside of the jacket.

107. January 10, 1885. See LINE OF DUTY, WHEN IT MAY BE PRESUMED.

108. January 23, 1885. See SPECIAL CASES.

109. March 27, 1885.

The only parts of the Pension Building which are open to visitors during business hours are the lobby and the rooms of the Commissioner, deputy commissioners, and chief clerk. No person, under any pretext, will be allowed to enter the rooms occupied by the clerical force, during working hours, inasmuch as the coming of agents, attorneys, visitors, or friends, is a very great distraction and interferes seriously with the usefulness and efficiency of the force. In cases of necessity a permit will be issued by the chief clerk authorizing such visits.

Order No. 52 is hereby revoked.

110. March 27, 1885.

Clerks must be at their desks *ready to go to work punctually* at 9 o'clock a. m., and must not leave their posts of duty until 4 p. m. except for the regular half-hour allowed for lunch between 12.30 and 1 p. m.

111. March 31, 1885.

Clerks employed in the Pension Office must not undertake to advise or direct claimants for what disabilities they shall claim pension in order to insure the passage and success of their claims. The Government of the United States has not established the Pension Bureau as a claim

ORDERS OF THE COMMISSIONER OF PENSIONS—Continued.

agency, and he who prosecutes or seeks to prosecute pension claims must do so from the outside of the Pension Office. Offenses of the kind referred to are unpardonable, and their occurrence in the future, under any circumstances, will not be tolerated or overlooked.

112. May 2, 1885. See SPECIAL EXAMINERS and SPECIAL EXAMINATIONS.

113. May 9, 1885.

The Pension Office will not be permitted to be used as a collecting agency, nor to be a refuge for any employé who deliberately contracts debts upon the strength of his official position and then neglects to pay the same.

114. May 15, 1885.

Upon the representation to the Commissioner by the chief of the Board of Review and the Medical Referee, that the operation of Order No. 80 is such as greatly to delay and embarrass the business of the office; and it further appearing that all the rights of claimants designed to be secured thereunder can be secured by other lawful methods which will not interfere with the progress of business in the office, it is hereby directed that said order No. 80 be abrogated and held to be of no effect.

See MEDICAL EXAMINATIONS and RATES OF PENSIONS.

115. May 15, 1885. See SPECIAL EXAMINERS and SPECIAL EXAMINATIONS.

116. June 29, 1885.

The attention of the Commissioner has been called to the fact that, in many instances, reviewers and others of the force without the permission or concurrence, and, in some cases, without the knowledge of their chiefs of division, pass them by and bring unsettled questions to the deputy commissioners, the Medical Referee, and others for decision of interlocutory questions. Such a course is subversive of good order and tends to introduce a diversity of rulings and to secure decisions in imperfectly prepared and incomplete cases. Each chief of division is held responsible for the work under his charge. It is therefore *Ordered*, That no case be presented from any division for decision, opinion, or examination, except in the usual course of progression, through the chief of the division from which the reference is made, or at his instance, assented to by one of the deputy commissioners or the Medical Referee.

This order is not designed to interrupt proper communication between the force and its chiefs, nor to prevent the presentation of disputed questions for decision, but only to secure order and exactness.

117. June 29, 1885. See PENSION CERTIFICATES.

118. July 1, 1885.

Every appeal by an examiner from the action of a reviewer shall first be submitted to the chief of the adjudicating division for approval or

ORDERS OF THE COMMISSIONER OF PENSIONS—Continued.

disapproval. If the action of the examiner is approved the case will be sent to the chief of the Board of Review who may, if the controversy is as to the weight of evidence, send the case to a different reviewer for further review. If, on this review, the Board of Review adheres to the action first taken the appeal shall be overruled; if otherwise, the action of the first reviewer shall be modified or set aside and the charge of error removed from the examiner. If the appeal as to the weight of evidence is made on a personal examination of said evidence by the chief of the adjudicating division, and the chief of the Board of Review cannot reach an agreement with him, or, if the point of controversy between them is as to action on admitted facts or on construction of law, the case shall be submitted to the Commissioner through the Board of Review.

A record of appeals by divisions shall be kept in the Board of Review, and said record shall show the case, the question, the examiner, the first and second reviewers' names, and the action taken on the appeal. A transcript of said record shall be sent to the Commissioner; and, so far as it relates to each division, to the chief thereof, at the end of each month.

119. July 22, 1885.

Ordered: That the Board of Re-Review be increased to ten (10) in number, to consist, at present, of Messrs. Poor, Kingsley, Bartlett, Lanston, Taber, Curtis (F. B.), Waite, Murphy, Burlingham, and ———.

The duties of the Board of Re-Review shall be the same as those heretofore performed by them. They will act under the immediate supervision and direction of the Commissioner, who, from time to time will assign one of their number to the charge of the business of the board.

All cases reaching the Board of Re-Review from the Board of Review, or by special direction of the Commissioner, will be distributed by lot among the re-reviewers by the acting chief, as the same are received from day to day.

All cases in which the re-reviewers and the chief of the Board of Review disagree, will be brought to the personal attention of the Commissioner for decision.

Mr. D. I. Murphy, until further direction, is assigned to the charge of the Board of Re-Review and will attend to the distribution of cases as provided above.

120. July 27, 1885.

Chiefs of divisions shall hereafter be charged with the accuracy of the pay-rolls of their respective divisions. To this end, they shall examine and certify to the correctness, in all their details, of the pay-rolls to be presented to and signed by the Commissioner.

ORDERS OF THE COMMISSIONER OF PENSIONS—Continued.

The assistant chief clerk will be charged with the duty of seeing to the presentation of the pay-rolls to the several chiefs of divisions in ample time to secure the execution of this order.

121. August 1, 1885.

The attention of the employés of the Pension Bureau is called to the following order of the honorable Secretary of the Interior relating to leaves of absence.

ORDER:]

DEPARTMENT OF THE INTERIOR,

Washington, July 30, 1885.

Leave of absence with pay, on account of sickness, will not be granted for a longer period than thirty (30) days in any calendar year. The necessity for such sick-leave must be fully established by medical evidence and to the satisfaction of the officers of the Department.

Department orders of January 1, 1883, and April 22, 1884, are hereby modified accordingly.

This order does not affect the annual leave for thirty days which may be granted under the provisions of the act of March 3, 1883.

L. Q. C. LAMAR,

Secretary.

122. August 11, 1885.

Where it is satisfactorily shown that an original paper filed as evidence in a claim for pension is absolutely essential to the establishment of legal rights of the claimant in other matters, such original paper may be returned to said claimant with a statement engrossed upon the face of said paper, by the chief of the division in which said case may be, to the effect that said paper has been used as evidence in said case and withdrawn at the request of the claimant, and a copy of said paper, certified to be correct by said chief of division, must be retained in the case, together with a statement of the facts of the withdrawal of said paper.

123. November 6, 1885.

Information concerning claims on file in the Pension Office, whether pending or adjudicated, must be furnished only through the medium of the regular official correspondence over the signature of the Commissioner or Acting Commissioner.

All letters addressed to chiefs of divisions, clerks, or employés of the Pension Bureau, requesting such information must be returned by the persons receiving them to the writers thereof with a copy of the following circular letter:

DEPARTMENT OF THE INTERIOR, PENSION OFFICE,

Washington, D. C., ———, 188—.

SIR: Herewith is returned your communication of ———, relating to the claim of ———, No. —, Company —, Regiment —. An

ORDERS OF THE COMMISSIONER OF PENSIONS—Continued.

inflexible rule of the office is that such communications can receive consideration only when delivered in due course of business to the Commissioner of Pensions. The said rule forbids any employé of the Pension Office to specially forward such applications. Upon receipt of this, return the inclosure with this circular to the party sending it. Please advise such party that the Commissioner of Pensions will gladly receive and promptly reply to communications regarding pension claims when they come in due course of business.

Very respectfully,

JOHN C. BLACK,
Commissioner.

_____,
_____,
_____.

124. December 3, 1885. See FEES OF AGENTS AND ATTORNEYS.

ORPHAN BROTHERS AND SISTERS.

See BROTHERS AND SISTERS, *par.* 4.

OVERPAYMENT.

Section 4734, Revised Statutes.

The provisions of law which allow the withholding of the compensation of any person who is in arrears shall not be construed to authorize the pension of any pensioner of the United States to be withheld.

Act 20 May, 1836.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. Where a widow was erroneously paid pension from the date of her husband's discharge, instead of from the date of his death, and thereby received nearly four years' pension to which he was not entitled: *Held*, that upon the facts presented future pension should be withheld from her until the Government had been reimbursed for the amount thus overpaid.

Brooker, Sarah E. Ctf. No. 106,124. Cox, J. D., Secretary. May 11, 1869. Vol. 2, p. 103.

2. Overpayment of pension to widow does not justify withholding of minor's pension.

Minors of Lewis Roth. App. No. 200,106. Delano, C., Secretary. May 5, 1873. Vol. 1, p. 362.

3. Of pension to widow warrants withholding pension of minors if guardian so requests.

Sechs, Catharine. Ctf. No. 92,879. Delano, C., Secretary. Feb. 28, 1874. Vol. 3, p. 115.

4. By another bureau cannot be recovered by withholding pension due the person thus overpaid.

Rushmore, Mary J. Ctf. No. 87,831. Delano, C., Secretary. Dec. 28, 1874. Vol. 3, p. 419.

Instructions: Chandler, Z., Secretary. Dec. 15, 1875. Vol. 4, p. 165. (*Vide* Kelley, James Chandler, Z., Secretary. Sept. 16, 1876. Vol. 4, p. 392.)

See SECTIONS 4734, 4747, AND 4766, REVISED STATUTES.

OVERPAYMENT—Continued.

5. Where widow of soldier, with two minor children, was pensioned, the widow remarried and drew pension during period of coverture until date of her death, and also drew pension for one minor deceased since allowance of claim; the guardian applied for minor, and upon request, consented to a deduction from pension to child of amount overdrawn by widow; a second guardian intervened, who dissented from arrangement made by first guardian, and demanded pension from date of widow's remarriage to be paid to him as guardian: *Held*, that in view of the fact that the child was in the custody of the mother and received the benefit of the pension, the action of the office in declining further payment is *affirmed*.

Hughes, Patrick E. (minors of). Ctf. No. 173,879. Schurz, C., Secretary. May 5, 1879. Vol. 6, p. 334.

6. To a pensioner, through an error of judgment in the Pension Office, for which he was not responsible, not to be refunded.

Laundon, John P. Ctf. No. 96,360. Schurz, C., Secretary. Feb. 3, 1880. Vol. 7, p. 200.

7. To be refunded if the error was a clerical one, made in inserting wrong rate of pension in the brief.

Basset, Ebenezer. Ctf. No. 112,761. Schurz, C., Secretary. Feb. 7, 1880. Vol. 7, p. 207.

8. Where pensioner (as is claimed), through ignorance, received pension upon restoration, covering period of second service: *Held*, that such payment was illegal, and grew out of a mistake of facts, and that such overpayment constitutes a debt due from the pensioner, and the withholding of his pension to reimburse the Government is unlawful.

Moss, James. Ctf. No. 8,924. Kirkwood, S. J., Secretary. Mar. 28, 1881. Vol. 8, p. 183.

9. James Moss was originally pensioned from July 12, 1858, and continued to draw his pension to September 4, 1865, from which date his name was dropped from the roll, by reason of his failure to draw pension for more than three years. He was subsequently restored from the date of dropping, and again dropped from December 4, 1874, for the same reason, and was again restored from the date last named. He applied for and was allowed increase from May 9, 1879. On his application for further increase, in October, 1879, it was discovered that he had rendered four several terms of military service in the late rebellion, during all which periods he was in receipt of pension. The claim for further increase was allowed, payment to be withheld until a sum equal to the amounts drawn during the terms of service referred to shall have been reimbursed to the Government. On appeal, the honorable Secretary reversed the action of the Pension Office in directing the withholding the pension money for such reimbursement, upon the ground that such overpayment constituted a debt due from the pensioner to the Government, and that, under the law, his pension money could not be taken to pay the debt—such overpayment having been received by him “in ig-

OVERPAYMENT—Continued.

norance of any violation of law." (See Secretary's decision of March 28, 1881, vol. 8, p. 183.)

But upon a re-presentation of the case to the honorable Secretary, with a report from the Third Auditor showing "that the pensioner, in each voucher presented for the payment of the pension for the period to which his appeal relates, made oath that he had not, during said period, been employed in the Army or Navy," he receded from the foregoing decision and affirmed the action of withholding the pension until the Government shall be reimbursed the amount overpaid to the pensioner, upon the ground "that the pensioner perpetrated a fraud in order to obtain the pension."

Moss, James. Ctf. No. 8,924 (Mexican War.) Kirkwood, S. J., Secretary. Jan. 24, 1882. Vol. 9, p. 76.

10. Pension was allowed on account of two disabilities; one, from a wound of shoulder, received while the applicant held the rank of first lieutenant, which was rated at one-half; and the other, from a wound in the side, received while he held the rank of major, and was rated at one-fourth. By an error of the Pension Office "he was allowed the proportionate part of the full pension of a major on account of the wound of the shoulder, and the proportionate part of the pension of a first lieutenant on account of the wound of the side. The error was not discovered until an overpayment of \$379.87 was made." Payment of the pension was suspended until the Government should be reimbursed for such overpayment.

In affirming this action, on appeal, the honorable Secretary decided that "the appellant has received an amount in excess of that provided by law for his disability. There is no authority of law, therefore, to make further payments until the overpayments shall be balanced by the accruing pension."

Lovell, Purdy. Ctf. No. 127,024. Kirkwood, S. J., Secretary. Feb. 6, 1882. Vol. 9, p. 90.

11. The widow of a soldier was pensioned with increase for a minor. Her right to pension ceased March 26, 1870, because of her remarriage on that date. She however continued to draw pension up to September 4, 1873. She died November 2, 1873, and the minor's claim was allowed, pension to commence from the date of the widow's remarriage, and the pension agent was instructed to withhold from the first payment to the minor the amount which had been illegally drawn by the widow for the period subsequent to her remarriage.

In sustaining this action on appeal, it was decided that "the evidence shows that the minor was in the care and custody of the widow, was supported by her, and therefore received the benefit of the payments made to the widow during the time for which she drew the pension to which she was not entitled"; and the decision of May 5, 1879, in the case of the minor of Patrick E. Hughes, is quoted from as follows, to wit: "The law provides that the benefits of a pension allowed to a

OVERPAYMENT—Continued.

widow on account of her husband's death shall, upon her remarriage, inure to his child or children under sixteen years of age, but it does not, in express terms, prescribe the manner in which the pension shall be paid. In this case the pension for the period in question, was paid to the mother, the natural guardian of the child, and the child received the benefits of it. In the view of the Department the pension has been paid to the child in such manner as to satisfy the requirements of the law and to preclude the repayment of it. To accede to the demand of the guardian would give effect to a fraud upon the Government and encourage the perpetration of similar frauds."

Gardner, James (minor of). Ctf. No. 185,150. Teller, H. M., Secretary. July 12, 1882. Vol. 9, p. 317.

12. A dependent mother of a deceased soldier of the war of the late rebellion was pensioned on account of his services and death, and was subsequently pensioned as the widow of a soldier of the war of 1812, and was in receipt of both pensions. When the facts became known to this office, payment of both pensions was suspended until a sufficient amount should accrue to reimburse the Government for the overpayment thus obtained by her.

On the question being submitted to the honorable Secretary, it was held that inasmuch as it appeared that the pensioner was not aware that she was not legally entitled to both pensions, and that she drew the same without any fraudulent intent on her part, it was held that the payment of her 1812 pension should be resumed, she having so elected.

Quigley, Betsy. Ctf. Nos. 82,861 and 8,633. (Old War). Joelyn, M. L., Acting Secretary. Mar. 29, 1883. Vol. 10, p. 221.

ORDER OF THE COMMISSIONER OF PENSIONS.

ORDER No. 28. January 17, 1874.

That the action of this office in all cases of refundment and recovery of improper or overpayments shall be governed by the following rules, viz:

1st. Special examiners will in all cases be governed by letters of instructions from this office, as to amounts to be recovered or refunded, and the action to be taken in each case; and no action will be taken by any agent of this office, further than to report the facts in the case, until such letter of instructions shall have been received.

2d. Whenever practicable, refundments and recoveries of money shall be required in drafts on New York, payable to the order of the party making such refundment, to be by him indorsed payable to the order of the Commissioner of Pensions as follows:

"Pay to the order of the Commissioner of Pensions.

"JOHN DOE."

And the draft so indorsed shall be transmitted to the Commissioner of Pensions, by whom it will be indorsed payable to the Treasurer of the

OVERPAYMENT—Continued.

United States. A full and complete record of the entire transaction, describing draft and giving the amount of the same, and the names of all parties connected therewith, together with the proper dates, will be made in a book to be kept for that purpose by the chief of the Special Examination Division, after which such draft will be sent to the Treasurer of the United States through the chief of the agents' division, who will procure and return to the chief of the Special Examination Division a receipt or certificate of deposit for the amount, to be noted and filed with the case to which it relates. In case cash is necessarily received instead of drafts, the same rules of transmission and record will be observed.

3d. Where the money recovered or refunded is the property of a pensioner, the same record will be kept, and the payment of the pensioner will invariably be by draft, to be purchased if necessary, and full record and description of such draft will be made and kept by the chief of the Special Examination Division.

P.

PACKHORSEMEN—WAR OF 1812.

See SERVICE PENSIONS, WAR OF 1812, par. 5.

PAROL EVIDENCE.

See EVIDENCE, parol.

PATRIOT WAR OF 1839.**DECISION OF THE SECRETARY OF THE INTERIOR.**

Muster-roll of Vermont militia in the Patriot war of 1839 cannot be controverted as to length of service by parol evidence.

Instructions: Chandler, Z., Secretary. February 17, 1876. Vol. 4, p. 214.

PAYMENT OF PENSIONS.**Section 4764, Revised Statutes.**

Within fifteen days immediately preceding the fourth day of March, June, September, and December in each year, the several agents for the payment of pensions shall prepare a quarterly voucher for every person whose pension is payable at his agency, and transmit the same by mail, directed to the address of the pensioner named in such voucher, who, on or after the fourth day of March, June, September, and December next succeeding the date of such voucher, may execute and return

PAYMENT OF PENSIONS—Continued.

the same to the agency at which it was prepared, and at which the pension of such person is due and payable.

Sec. 1, 8 July, 1870.

Section 4765, Revised Statutes.

Upon the receipt of such voucher, properly executed, and the identity of the pensioner being established and proved in the manner prescribed by the Secretary of the Interior, the agent for the payment of pensions shall immediately draw his check on the proper assistant treasurer or designated depository of the United States for the amount due such pensioner, payable to his order, and transmit the same by mail, directed to the address of the pensioner entitled thereto; but any pensioner may be required, if thought proper by the Commissioner of Pensions, to appear personally and receive his pension.

Sec. 2, 8 July, 1870.

Section 4766, Revised Statutes.

Hereafter no pension shall be paid to any person other than the pensioner entitled thereto, nor otherwise than according to the provisions of this title; and no warrant, power of attorney, or other paper executed or purporting to be executed by any pensioner to any attorney, claim agent, broker, or other persons shall be recognized by any agent for the payment of pensions, nor shall any pension be paid thereon; but the payment to persons laboring under legal disabilities may be made to the guardians of such persons in the manner herein prescribed, and pensions payable to persons in foreign countries may be made according to the provisions of existing laws: *Provided*, That in case of an insane invalid pensioner having no guardian, but having a wife or children dependent upon him (the wife being a woman of good character), the Commissioner of Pensions is hereby authorized, in his discretion, to cause the pension to be paid to the wife, upon her properly-executed voucher, or in case there is no wife, to the guardian of the children, upon the properly-executed voucher of such guardian, and in like manner to cause the pension of invalid pensioners who are or may hereafter be imprisoned as punishment for offenses against the laws to be paid while so imprisoned to their wives or the guardians of their children. And pensions to Indian pensioners residing in the Indian Territory may be paid in person by the pension agent, upon a suitable voucher, at some convenient point in said Territory, which, together with the form and manner of identification of the pensioners, may be prescribed by the Secretary of the Interior; such payments to be made in standard silver, at least once in each current year. And payments in person shall be made to the pensioner, in cash, by the pension agent whenever in the discretion of the Commissioner of Pensions such personal payment shall be by him deemed necessary or proper to secure

PAYMENT OF PENSIONS—Continued.

to the pensioner his rights; and the necessary and actual expenses of such pension agent in making such payments shall be paid by the Secretary of the Interior upon properly-executed vouchers, out of the contingent fund appropriated for the use of the Pension Office. The Commissioner of Pensions may, when in his judgment it shall be deemed necessary or proper, visit in person, for the purpose of examination and inspection, or may send any one or more of the officers of his Bureau for that purpose, any of the pension agencies or medical examining boards or surgeons; and the necessary and actual expenses of such visits shall be paid by the Secretary of the Interior, upon properly executed vouchers, out of the contingent fund of said Bureau.

Sec. 3, 8 July, 1870. Re-enacted by act 8 Aug., 1882.

Section 4767, Revised Statutes.

The Secretary of the Interior shall cause suitable blanks for the vouchers mentioned in section forty-seven hundred and sixty four to be printed and distributed to the agents for the payment of pensions, upon which he shall cause a note to be printed, informing pensioners of the fact that hereafter no pension will be paid except upon the vouchers issued as herein directed.

Sec. 5, 8 July, 1870.

(For sections 4768 and 4769, Revised Statutes, which prescribe the manner in which pension agents shall pay attorneys' fees, &c., see FEES OF AGENTS AND ATTORNEYS.)

Section 4770, Revised Statutes. Now Section 3646.

"Whenever any original check is lost, stolen, or destroyed, disbursing officers and agents of the United States are authorized, after the expiration of six months, and within three years from the date of such check, to issue a duplicate check; and the Treasurer, assistant treasurers, and designated depositaries of the United States are directed to pay such duplicate checks, upon notice and proof of the loss of the original checks, under such regulations in regard to their issue and payment, and upon the execution of such bonds, with sureties to indemnify the United States, as the Secretary of the Treasury shall prescribe. This section shall not apply to any check exceeding in amount the sum of one thousand dollars."

(For the law upon the subject of the payment of pensions to persons who are inmates of the National Homes for disabled Volunteer and Regular Army soldiers, see SOLDIERS' HOMES.)

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. Should not be made to any person but the pensioner.

Whitford, Alfred H. Ctf. No. 32,320. Cox, J. D., Secretary. July 27, 1870. Vol 1, p. 90.

PAYMENT OF PENSIONS—Continued.

2. Matter of, after issue of certificate, comes under the supervision and control of the accounting officers of the Treasury Department.

Osborn, Jos. E. Ctf. No. 103,405. Delano, C., Secretary. July 24, 1871. Vol. 2, p. 204.

3. Of minors, cannot be made to different guardians.

Selbald, Joseph, minors of. App. No. 171,769. Delano, C., Secretary. Jan. 12, 1872. Vol. 1, p. 141.

4. Should not be suspended upon unsworn statements.

Simmons, Lemon N. Ctf. No. 70,032. Delano, C., Secretary. May 5, 1874. Vol. 3, p. 188. (See, also, case of Whitney, Charlotte. App. No. 146,227. Vol. 3, p. 343.)

5. May be suspended by the Commissioner of Pensions if pension was granted through fraud or error.

Harris, Catharine. Ctf. No. 164,180. Delano, C., Secretary. Dec. 1, 1874. Vol. 3, p. 380.

6. Where the check was drawn and mailed to the pensioner's address the provision of law as to payment is fully complied with. (See section 4765, Revised Statutes.) The subsequent diversion of the check is not within the jurisdiction of the Department.

Neff, Alexander. Ctf. No. 122,784. Chandler, Z., Secretary. Mar. 18, 1876. Vol. 4, p. 231.

7. Cannot be directed by the Second Comptroller, but can only be made by the Secretary of the Interior acting through the Commissioner of Pensions.

Collins, William T. Ctf. No. 14,118. Chandler, Z., Secretary. Mar. 30, 1876. Vol. 4, p. 242.

8. The check should embody the object for which it is drawn, and should be payable to the order of the pensioner, except where the pensioner labors under legal disability, or has become an inmate of National Home and assigned his pension thereto.

Instructions: Chandler, Z., Secretary. Mar. 30, 1876. Vol. 4, p. 244.

9. A pensioner, after drawing his first payment in January, 1870, left his home (Boston, Mass.) for New Orleans, where he remained until recently. He left his pension certificate in the hands of one Johnson, from whom he failed to obtain it, although he made several requests therefor, and failed to obtain any further payment of his pension. In the mean time Johnson falsely personated the pensioner and drew his pension money from about 1870 to 1882, and was prosecuted and "was convicted of false personation and forgery."

On this statement of facts the Hon. Secretary approved the proposal of this office "to pay the pensioner his pension for the time his pension was wrongfully obtained by the said Johnson."

Ross, William. Ctf. No. 1,344 (Navy). Teller, H. M., Secretary. May 21, 1884. Vol. 11, p. 206.

ORDERS OF THE COMMISSIONER OF PENSIONS.**ORDER No. 48. January 16, 1877.**

Whenever the office shall require information touching payments to any pensioner, the inquiry shall be made of the proper pension agent,

PAYMENT OF PENSIONS—Continued.

as soon as the necessity for such information is discovered. Hereafter no reference for such information will be made to the Third Auditor of the Treasury, nor to the abstracts of payments which have been furnished by the pension agents, unless the emergency of the case shall make such a reference necessary on account of the shortness of time or other pressing necessity.

ORDER No. 50. *July 24, 1877.*

Pensioners will be transferred from one agency to another only upon the following conditions:

The applicant for such transfer must prove by his own oath, and that of two other credible witnesses, certified by the register of deeds, or other officer having charge of the real-estate records of the county, to be freeholders of the town where the applicant resides, that he has been a resident of the agency district to which he desires to be transferred for six successive months next before making his application for transfer.

This order shall not apply to pensioners residing in foreign countries, or at the several homes for disabled soldiers.

PENDING CLAIMS.**DECISIONS OF THE SECRETARY OF THE INTERIOR.**

1. A pending claim is the claim which was first filed, and which is not disposed of.

Bernard, Augustine. Ctf. No. 18,582. Cowen, B. R., Acting Secretary. Nov. 2, 1875. Vol. 4, p. 131.

2. A claim for pension filed subsequent to the claimant's death, although executed prior to that event, cannot be considered as a claim pending at the date of his death.

See DECLARATIONS, par. 5.

PENSIONS.**Section 4715, Revised Statutes.**

Nothing in this title shall be so construed as to allow more than one pension at the same time to the same person or to persons entitled jointly; but any pensioner who shall so elect may surrender his certificate, and receive, in lieu thereof, a certificate for any other pension to which he would have been entitled had not the surrendered certificate been issued. But all payments previously made for any period covered by the new certificate shall be deducted from the amount allowed by such certificate.

Sec. 2, 3 Mar. 1873; secs. 3, 4, 10, 14 July, 1862; sec. 13, 6 June, 1866; sec. 2, 25 July, 1866.

PENSIONS—Continued.

Section 4745, Revised Statutes, as amended by section 2, act of February 28, 1883, prohibits the pledge, mortgage, sale, assignment, or transfer of pensions.

See DIVISION OR DIVERSION OF PENSION.

Section 4747, Revised Statutes.

Pension money not liable to attachment, levy or seizure.

See DIVISION OR DIVERSION OF PENSION.

DECISION OF THE SECRETARY OF THE INTERIOR.

1. A pension is no part of a contract for service. It is payment for loss of physical ability to earn a livelihood, determined solely by the degree of disability, and not in any sense a reward for good conduct.

2. A pension is granted not for the wound received, or the disease contracted, but for the disability resulting therefrom.

3. A pension is a gratuity and not a debt, and claims therefor should be settled according to the law in force at the time of adjudication.

Conroy, Jane. App. No. 200,696. Delano, C., Secretary. June 9, 1875. Vol. 4, p. 66.

Schmidt, Henry. Ctf. No. 35,234. Chandler, Z., Secretary. Feb. 11, 1876. Vol. 4, p. 197.

Marsellos, Adrian (minor). Schurz, C., Secretary. Sept. 28, 1877. Vol. 5, p. 238. (*Vide* Le-master, George, heirs of (1812). Schurz, C., Secretary. May 1, 1879. Vol. 6, p. 320.)

See, also, opinion of Attorney-General Mason, 1845. Opinions of Attorneys-General, vol. 4, p. 306. 10 Howard, p. 358. 107 Otto, p. 68.

PENSIONS, COMMENCEMENT OF.**RULINGS OF THE COMMISSIONER OF PENSIONS.****RULING No. 47. September 22, 1869.**

"From date of death" means exclusive of such date, and the briefs in all such cases should make the pension date on and from the day after such death, provided the soldier died while in the service.

RULING No. 48. April 20, 1870.

Where a doubt exists as to the date of death of soldier, pension will be granted from the date to which back pay was allowed by Second Auditor.

RULING No. 118. June 11, 1885.

Where the proof in an invalid claim shows that the *cause* of the disability alleged originated in the service and line of duty, but that the resulting disability itself did not develop, or exist in a pensionable degree, until some time after discharge, pension, when allowed, will be made to commence from the date actual pensionable disability is shown to have commenced, and not before.

McLaren, John. App. No. 298,173.

[NOTE.—In a ruling dated July 30, 1885, the Commissioner held the right rule to be to allow a pension for a disability during the period the evidence on file shows it existed. This rule simply enlarges the scope of the ruling in the McLaren case, but does not modify it in any particular. Case of Pittman, G. M. App. No. 300,236. Order book, p. 73.]

PENSION AGENTS.**Section 4778, Revised Statutes.**

The President is authorized to appoint, by and with the advice and consent of the Senate, all pension agents, who shall hold their respective offices for the term of four years, unless sooner removed or suspended as provided by law, and until their successors are appointed and qualified.

Act 5 Feb., 1867; see sec. 4, 24 Apr., 1816; sec. 1, 20 Apr., 1836; and act 8 Mar., 1878.

Act of March 8, 1878.

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever during a session of the Senate a vacancy shall occur in the office of pension agent, by reason of resignation, death, removal, or expiration of the term of office, or where any such agent lawfully appointed shall have failed to qualify and assume the duties of such office, the President may, when the public exigency requires it, designate any officer of the United States to perform the duties of such office, but such designation shall not be for a longer time than twenty days, and such officer so designated shall give bonds, if required by the President, for the faithful discharge of the said duties, and the Secretary of the Interior shall allow in the settlement of the accounts of such officer, the necessary expenses incurred by him in the discharge of his duties under this act. The foregoing provisions shall apply to any vacancy now existing."

Section 4779, Revised Statutes.

All pension agents shall give bond, with good and sufficient sureties, for such amount and in such form as the Secretary of the Interior may approve.

Act 5 Feb., 1867.

Section 4780, Revised Statutes.

The President is authorized to establish agencies for the payment of pensions wherever, in his judgment, the public interests and the convenience of the pensioners require; but the number of pension agencies in any State or Territory shall in no case be increased hereafter so as to exceed three, and no such agency shall be established in addition to those now existing in any State or Territory in which the whole amount of pensions paid during the fiscal year next preceding shall not have exceeded the sum of five hundred thousand dollars.

Act 5 Feb., 1867.

Sections 4781 and 4782, Revised Statutes, repealed, and the following enacted instead by act of June 14, 1878:

"That from and after July first, eighteen hundred and seventy-eight, agents for the payment of pensions shall, in lieu of the percentage, fees,

PENSION AGENTS—Continued.

pay, and allowances now provided by law, be allowed and paid the following compensation for their services, postage on vouchers and checks sent to pensioners, and all the expenses of their offices:

“First. A salary at the rate of four thousand dollars per annum.

“Second. Fifteen dollars for each one hundred vouchers, or at that rate for a fraction of one hundred prepared and paid by any agent in excess of four thousand vouchers per annum.

“Third. Actual and necessary expenses for rent, fuel, and lights, and for postage on official matter directed to the Departments and Bureaus at Washington, to be approved by the Secretary of the Interior.” * * *

PAB. 3. And all acts and parts of acts inconsistent with this act are hereby repealed.

AN ACT making appropriations for the payment of the arrears of pension granted by the act of Congress approved January 25, 1879.

The pension agents shall receive for their services and expenses in paying the arrears upon pensions allowed previous to January twenty-fifth, eighteen hundred and seventy nine, including postage on the vouchers and checks sent to the pensioner, thirty cents for each payment. (Approved March 3, 1879.)

Sec. 4781, R. S. ; act 20 June, 1874 ; act 14 June, 1878.

AN ACT making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June 30, 1885, approved July 4, 1884.

“*Provided*, That from and after July first, eighteen hundred and eighty-four, agents for the payment of pensions shall receive only twelve dollars and fifty cents for each one hundred vouchers, or at that rate for a fraction of one hundred, prepared and paid by any agent in excess of four thousand vouchers per annum.”

Act of March 3, 1885.

* * * * *

“*Provided*, That from and after June thirtieth, eighteen hundred and eighty-five, the salary and emoluments of agents for the payment of pensions shall be four thousand dollars, and no more, per annum ; and of the fees provided by law for vouchers prepared and paid, only so much thereof as may be required for expenses incurred in having said vouchers prepared, as well as the necessary clerical work at the agencies, shall be available.”

Section 4784, Revised Statutes.

Agents for the payment of pensions, and any clerks appointed by them and designated in writing for that purpose, which designation shall be returned to and filed in the office of the Commissioner of Pen-

PENSION AGENTS—Continued.

sions, are required, without any fee therefor, to take and certify the affidavits of all pensioners and their witnesses who may personally appear before them for that purpose, in which case the check for the pension, when due and payable, shall be given direct to the hand of the party entitled thereto, if desired, and not mailed to his address as required by section forty-seven hundred and sixty-five.

Sec. 6, 8 July, 1870; see Penalty, sec. 5487.

OPINION OF THE ATTORNEY-GENERAL.

Pension agents are officers of the Department of the Interior and take their instructions from the Commissioner of Pensions.

See JURISDICTION.

DECISION OF THE SECRETARY OF THE INTERIOR.

As a rule the bond of a pension agent should not be changed during his tenure of office. If the necessity for such a change occurs, the old bond should remain in full force and effect until the new bond has been formally accepted and approved by the Secretary of the Interior, and from and after such approval all remittances should be made under the later bond.

Instructions: Delano, C., Secretary. June 26, 1874. Vol. 3, p. 246.

PENSION CERTIFICATES.**Section 4768, Revised Statutes.**

The Commissioner of Pensions shall forward the certificate of pension, granted in any case, to the agent for paying pensions where such certificate is made payable.

* * * * *

Sec. 9, 8 July, 1870; sec. 6, 14 July, 1862; sec. 12, 4 July, 1864.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. A widow in receipt of a half pay pension under the old law may surrender her certificate and receive a pension of \$8 per month under the act of July 14, 1862.

Stickney, Cynthia. No. 515. Harlan, James, Secretary. Mar. 16, 1866. Vol. 2, p. 111.

2. Duplicate issuable only upon proof of loss, destruction, or cancellation of original.

Hitchcock, George A. Browning, O. H., Secretary. Feb. 14, 1867. Vol. 2, p. 190.

3. If issued before claimant's death estops heirs from appeal.

Hartwell, Calvin. Ctf. No. 9,501. Browning, O. H., Secretary. Feb. 26, 1869. Vol. 2, p. 99.

4. Not liable to a lien for fee of attorney.

Instructions: Cox, J. D., Secretary. Aug. 31, 1869. Vol. 2, p. 126.

5. Cannot be changed after issue by indorsement of office.

Burnett, Ward B. Ctf. No. 3,851. Cox, J. D., Secretary. Mar. 5, 1870. Vol. 1, p. 77.

PENSION CERTIFICATES—Continued.**ORDERS OF THE COMMISSIONER OF PENSIONS.****ORDER No. 26. August 22, 1873.**

Hereafter inscribe upon all invalid pension certificates, after the date of commencement, the following: "This pension being for [*here name the injury or injuries and the disease or diseases*]."

ORDER No. 117. June 29, 1885.

1. Hereafter whenever pension certificates are surrendered to any person in the Pension Bureau, or to any pension agent, the same shall be immediately forwarded to the Commissioner of Pensions.

2. Such certificates when received will be transmitted to the chief of the Miscellaneous Division, who will at once cause the same to be stamped and canceled and to be placed with the files in the cases in which said certificates issued.

3. The chief of the Miscellaneous Division will keep an accurate record of the receipt of all such certificates, showing their date of issue, date of receipt, and everything else necessary to their identification.

[NOTE.—The issue of this order was made necessary by the fact that, in some instances, certificates have been retained long after their surrender by the pensioners, thus rendering it possible to practice frauds upon the Government by payments thereon.]

PENSION CLAIMS, WHEN THEY MAY BE SAID TO BE ALLOWED.**DECISION OF THE SECRETARY OF THE INTERIOR.**

"A pension claim cannot be said to be 'allowed' until the certificate in which it is certified that the person named therein is entitled to a pension is signed by the Secretary of the Interior under the seal of the Department. Any action prior to that, however necessary it may be to the orderly adjudication of the case, cannot properly be regarded as the *allowance* of the claim. And if the fee agreements contemplated in the statutes are filed in your office before the signing of the pension certificate by the Secretary, sections 4768, 4769, and 4786 of the Revised Statutes are applicable to the case."

Jennings, Robert L. Ctf. No. 271,679. Joslyn, M. L., Acting Secretary. Aug. 25, 1884. Vol. 11, p. 239.

RULING OF THE COMMISSIONER OF PENSIONS.**RULING No. 97. May 1, 1885.**

In pension claim No. 165,305, of Lawrence H. Kannada, Company F, Fourth Illinois Cavalry, it appearing to the Commissioner, from reports made to him, that the medical and other proofs are complete, showing a pensionable degree of disability as to a part of such disabilities alleged by the claimant, and incomplete as to others, it is hereby ordered that the case proceed upon the proof now made, to the end that, if found satisfactory, a certificate may issue, based upon the disability which may be shown to exist; that that part of the claim based upon disabilities

PENSION CLAIMS, WHEN THEY MAY BE SAID TO BE ALLOWED— Continued.

not shown to exist be rejected, but without prejudice to the claimant, it being the desire of the Commissioner to promptly extend the benefits of the existing laws in all deserving cases.

ORDERS OF THE COMMISSIONER OF PENSIONS.

ORDER No. 57. *August 10, 1881.*

That in all pension claims wherein more than one disability is alleged, the claimant shall be advised, upon completion of the proof of any one of the alleged disabilities, of the evidence still necessary to the establishment of the others; and that the office, upon request therefor, will issue a certificate for the disability thus established, without prejudice to any rights he may have on account of the disabilities then not proven.

ORDER No. 82. *May 31, 1882.*

Pension claims in which more than one disability is alleged, will be admitted when one of the pensionable disabilities is established.

Order 57 is modified accordingly.

ORDER No. 102. *July 28, 1884.*

Order 82 is hereby revoked and order 57 is modified to read as follows: That in all pension claims wherein more than one disability is claimed, when the proof is complete as to any one of the alleged disabilities, the office, upon request therefor by claimant, will issue a certificate for the disability thus established, without prejudice to any rights he may have on account of the disabilities then not proven.

PENSION MONEY, TAXATION OF.

DECISION OF THE SECRETARY OF THE INTERIOR.

"Whether money received by a pensioner from the Government, in payment of his pension, is liable to taxation under the laws" of a State, is not a question for the determination of the Department (Interior), but for the courts of the State.

Instructions: Teller, H. M., Secretary. May 9, 1882. Vol. 9, p. 188.

PNEUMONIA.

See CAUSE OF DEATH, par. 2, and WIDOWS, pars. 20, 21.

POWERS OF ATTORNEY.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. Required of attorneys in claims for pension.

Instructions: Delano, C., Secretary. July 5, 1872. Vol. 1, p. 204. (*Vide* Byrne, Martin. B. L. W. 61,617. Schurz, C., Secretary. Feb. 10, 1880. Vol. 7, p. 211.)

POWERS OF ATTORNEY—Continued.

2. A contract for fee may be accepted as equivalent to and as having the force of a formal power of attorney.

Golt, Emeretta, widow of Golt, William. App. No. 112,838. Kirkwood, S. J., Secretary. June 29, 1881. Vol. 8, p. 328.

See ATTORNEYS.

PREDISPOSITION TO DISEASE.**DECISION OF THE SECRETARY OF THE INTERIOR.**

Where it appears that claimant's system was more susceptible to the disease, from which it is proved he died, in consequence of chronic affection, it is no bar to widow's right to pension when the fact is made to appear that the soldier died of disease contracted in the service and in line of duty.

Featherson, Mary. Smith, C. B., Secretary. Oct. 15, 1861. Vol. 1, p. 17.

PRESUMPTION OF DEATH.**DECISIONS OF THE SECRETARY OF THE INTERIOR.**

1. Death of soldier cannot be presumed, but must be proven to entitle his widow.

Grant, Waty. App. No. 1,280. Smith, C. B., Secretary. Sept. 13, 1861. (Printed.)

2. A soldier "was wounded in action October 27, 1864, and was sent to hospital, and was not again with the company, which continued in service until the 29th of September, 1865." He was admitted to hospital October 29, 1864, with a gunshot wound of right shoulder and of the right leg, and was transferred (where not stated) November 9, 1864.

The records furnish no further account of him. The parol testimony shows that he was dangerously wounded in his shoulder and leg, and that his death was reported to the command, and believed by his comrades, to have occurred about May 1, 1865. His widow's and minor's claim was rejected "on the ground that the records fail to show, and the applicant is unable to prove, the fact, date, or cause of the soldier's death." It was shown that the soldier had never been heard from since the time of his supposed death.

On appeal, it was *held*, that the testimony "should be accepted as showing that the soldier died about the 1st of May, 1865, from causes connected with his military service." And in referring to the decision of Mr. Secretary Smith, dated September 13, 1861, in the case of Waty Grant (see par. 1, this title), in which it was *held*, "that the death of a soldier cannot be presumed, but must be proved, to entitle his widow to pension," the Acting Secretary uses the following language, viz: "That cases arise in which it is impossible to obtain positive proof of the soldier's death, but the presumption of his death from causes connected with his service is so strong as to justify the allowance of a claim

PRESUMPTION OF DEATH—Continued.

for pension made on behalf of his widow, children, or dependent relatives. When a soldier is reported missing in action, under circumstances which lead to the belief that he was killed in battle, a claim for pension on his account may properly be allowed. When a soldier was captured by the enemy and all the circumstances of the case lead to the belief that he died from disease contracted while in captivity, it would be proper in the execution of the pension law to act upon the presumption of his death. Other cases occur in which the presumption of a soldier's death from causes connected with his service is so strong as to justify the allowance of a claim for pension on his account.

"The presumption of the common law is that a person who has been absent and not heard from for seven years, is dead. The presumption may properly be accepted under the pension law, and if when last heard from a soldier was suffering from serious disease contracted or injury received in the line of duty in the service, it may be presumed that his death occurred from such cause, if there is nothing in the circumstances of the case to rebut such presumption."

Dangerfield, Beverly, widow and minors of. No. 172,453. *Joelyn, M. L., Acting Secretary.* Oct. 24, 1882. Vol. 9, p. 424.

3. The record shows that the soldier enlisted December 8, 1863, but does not show his discharge or death. He was sent to hospital with diarrhea February 1, 1865, and proof was furnished that he has not been seen nor heard from since. On these facts the claim of his mother was allowed in accordance with the decision in the *Dangerfield case*.

Gill, Sarah, mother of Waters, W. H. No. 185,189. *Teller, H. M., Secretary.* Feb. 19, 1884. Vol. 11, p. 134.

4. A soldier enlisted December 12, 1863, and deserted January 2, 1865. His widow alleged that he was killed January 1, 1865, by rebel sharpshooters and claimed (though she furnished no proof) that he had not been heard of since. Her claim was rejected "on the ground that it was not shown that he died of any injury or wound received or disease contracted in the service and line of duty."

On appeal it was asked that the claim be adjudicated in accordance with the *Dangerfield* decision, but it was held that if there was proof that the soldier had not been heard from since the date of his desertion, that fact would be sufficient to warrant the presumption of his death, but that beyond this, that decision has no applicability to the present case.

There is no proof, as there was in the *Dangerfield case*, that the soldier was laboring, when last heard from, under a disability incurred in the line of duty, and the presumptions governing the *Dangerfield case* are quoted to the effect that the death of a "person who has been absent and not heard from for seven years" may be presumed, "and if, when last heard from, a soldier was suffering from a serious disease contracted

PRESUMPTION OF DEATH—Continued.

or injury received in the line of duty in the service, it may be presumed that his death occurred from such cause, if there is nothing in the circumstances of the case to rebut such presumption."

Grannon, Mary A. No. 265,120. Teller, H. M., Secretary. Feb. 23, 1884. Vol. 11, p. 140.

5. The soldier enlisted October 1, 1861, and deserted May 11 or 12, 1862. His widow filed her claim for pension July 15, 1867, alleging that he was missing at Hamburg, Tenn., May 7, 1862, and that he had not been heard from since, and was supposed to have died in rebel prison.

In affirming the action of rejection it was held that "the widow of a deceased soldier can acquire title to pension, under the law, only upon proof that her husband's death was caused by some injury received or disease contracted in the service and line of duty. There are some cases in which death from such a cause may be presumed from the circumstances under which the soldier was last seen alive. If, for example, he was then an inmate of rebel prison or was suffering from a dangerous wound or disease incurred in the line of duty, it would be held, upon satisfactory evidence that he has not been seen or heard from since, that death resulted from causes connected with the service and line of duty.

"Such a presumption cannot arise where no evidence exists that the soldier was captured or incurred any disability in the service and line of duty; still less can it arise in the face of a record of desertion."

* * * * *

"The Department cannot go behind the records of the War Department. If the record of desertion is erroneous, evidence to establish that fact should be filed with the Adjutant-General, who has the power of correction."

Woodworth, Mary. No. 149,926. Teller, H. M., Secretary. Mar. 31, 1884. Vol. 11, p. 182.

RULINGS OF THE COMMISSIONER OF PENSIONS.**RULING No. 6. December 7, 1880.**

Death is to be presumed in cases where more than two years elapse since the date of soldier's supposed death *in action*.

RULING No. 90. April 15, 1885.

Where it was alleged that soldier contracted disease early in 1865, and the supposition was advanced that his death occurred "in some hospital in the Spring of that year," it being *shown* that he was admitted to hospital March 15, 1865, suffering from chronic diarrhoea, but owing to the incomplete condition of the hospital records the fact or date of death could not be determined, the company muster-rolls affording no further information than that the soldier was sent to hospital "sick." *Held*, that the presumption of the common law that a person who has been absent and not heard from for seven years is dead may be accepted in this case, but in view of the fact that the allegations of the widow as to

PRESUMPTION OF DEATH—Continued.

her husband's disappearance and supposed death are not corroborated by other testimony, pension cannot be allowed to commence prior to the expiration of the seven years, when the soldier may be considered as dead.

Starkweather, Angeline. App. No. 226,722.

RULING No. 140. November 11, 1885.

Where it was shown that soldier was captured while in line of duty, and afterwards died in rebel prison, but the exact date of his death could not be ascertained: *Held*, that his mother's claim for pension be allowed to commence May 9, 1865, the date of the closing of the war, that being the last possible date at which the soldier could have died in captivity, and that, if the claimant can hereafter prove the exact date of death a re-issue can then be made to correct the date of commencement, the burden of proof being on her.

Mother of Joseph Hite. App. No. 227,681.

[NOTE.—This ruling does not modify ruling No. 90, in the Starkweather case. In that case neither the *fact* nor *date* of death was shown. In this case the *fact* of death is shown by the record.]

ORDERS OF THE COMMISSIONER OF PENSIONS.**ORDER No. 74. January 20, 1882.**

* * * * *

2. When it is shown that a soldier was captured while in the line of duty, and it appears that he was afterwards an inmate of a rebel prison, and has not since been heard from, his death shall be presumed to have occurred in the service and line of duty, and the day after he was last seen or heard from may be accepted as the date of death.

PRESUMPTION OF FACT.**DECISIONS OF THE SECRETARY OF THE INTERIOR.**

1. Where there is a long lapse of time between the period of service and the date of soldier's death, the presumption is strong that the fatal disease was contracted after discharge.

Meeker, Rebecca C. Smith, C. B., Secretary. Mar. 18, 1861. Vol. 1, p. 1.

Fricke, Frank. Ctf. No. 84,038. Delano, C., Secretary. June 5, 1875. Vol. 4, p. 60.

2. "Pension laws should be construed and executed in the liberal and generous spirit which prompted their enactment, and when doubts cannot be resolved by evidence presumptions should incline towards the claimants." Following this view, in the case of a man who was found dead in his tent with a bullet wound in the head, the fact that he committed *suicide* cannot be *presumed*; it must be *proved* before the claim of his widow for pension can be rejected.

Vimont, Mary Jane. App. No. 65,251. Harlan, James, Secretary. Jan. 17, 1866. Vol. 1, p. 50.

Benner, Mary A. App. No. 137,738. Delano, C., Secretary. Jan. 29, 1874. Vol. 3, p. 94.

PRESUMPTION OF FACT—Continued.

3. Something more positive than mere presumption is necessary to justify the rejection of a claim.

Higgins, Alexander. App. No. 42,323. Cowen, B. R., Acting Secretary. Apr. 10, 1875. Vol. 4, p. 1.

4. Where a soldier re-enlists subsequent to the date of the contraction of his disability, and serves three years, being reported "*present*" during said period, the presumption is raised that the disability was not of a serious character during said period, but strengthens the view that it has been progressive.

Friend, Charles H. Ctf. No. 142,593. Schurz, C., Secretary. Mar. 2, 1880. Vol. 7, p. 241.

ORDER OF THE COMMISSIONER OF PENSIONS.

ORDER No. 74. *January 20, 1882.*

1. When it appears that the soldier was sound at the date of his capture in line of duty, and that he was disabled as alleged at the date of his release from rebel prison, the origin of said disability may be presumed to have originated in the service and in the line of duty, *provided* said disease was incident to the service or to such imprisonment.

* * * * *

PROFESSORS IN THE MILITARY ACADEMY.

See CIVILIANS IN SERVICE OF A QUASI-MILITARY CHARACTER, *par.* 10.

PROOF, BURDEN OF.

See BURDEN OF PROOF and EVIDENCE.

PROVOST-MARSHALS AND DEPUTY PROVOST-MARSHALS.

See CIVILIANS IN SERVICE OF A QUASI-MILITARY CHARACTER, *par.* 11.

Q.**QUARTERMASTER'S DEPARTMENT, EMPLOYÉS OF.**

See CIVILIANS IN SERVICE OF A QUASI-MILITARY CHARACTER, *par.* 12, and SERVICE PENSIONS, WAR OF 1812, *par.* 5.

R.**RANK.**

Section 4696, Revised Statutes.

Every commissioned officer of the Army, Navy, or Marine Corps shall receive such and only such pension as is provided in the preceding section for the rank he held at the time he received the injury or contracted

RANK—Continued.

the disease which resulted in the disability on account of which he may be entitled to a pension; and any commission or Presidential appointment, regularly issued to such person, shall be taken to determine his rank from and after the date, as given in the body of the commission or appointment conferring the said rank: *Provided*, That a vacancy existed in the rank thereby conferred; that the person commissioned was not disabled for military duty, and that he did not willfully neglect or refuse to be mustered.

Sec. 7, 6 June, 1866.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. The rank of a soldier at the time his disability was contracted governs the rate of his pension.

Reinoehl, A. C. App. No. 63,587. Harlan, James, Secretary. July 20, 1865. Vol. 2, p. 181.

2. A warrant or commission, unless issued by the President of the United States or a governor of a State, does not authorize the allowance of a pension greater than that of a private.

Goodrich, Sarah L. Ctf. No. 2,139. Browning, O. H., Secretary. July 24, 1868. Vol. 2, p. 193.

3. If not mustered therein, and command not of a sufficient strength, does not fix rate.

Chantry, Margaret A. App. No. 153,037. Cox, J. D., Secretary. Dec. 17, 1870. Vol. 2, p. 149.

4. Under a commission dated after the contraction of disability does not fix rate.

French, Emily S. Ctf. No. 52,543. Delano, C., Secretary. Feb. 7, 1871. Vol. 1, pp. 99-130.

5. Unless mustered therein, not determined by commission, even if acting under said commission.

Crosby, Sarah A. Ctf. No. 153,347. Delano, C., Secretary. July 2, 1872. Vol. 1, p. 202.

6. Not conferred by a commission unless a vacancy existed in such rank.

Mullin, Ellen. Ctf. No. 65,713. Delano, C., Secretary. Apr. 24, 1874. Vol. 3, p. 181.

7. Rank is not conferred by a commission issued by the governor of a State, where it is shown that during the period between the date of the instrument and the date of the death of the soldier no vacancy existed in the office designated in said commission.

Widow of A. Hull. Ctf. No. 32,996. Schurz, C., Secretary. Mar. 12, 1870. Vol. 6, p. 275.

8. If a commission was issued to a person "giving him rank from a date prior to the date at which he was injured, and the War Department should report that the organization to which he belonged was in the service of the United States, and that a vacancy existed in the rank conferred by the commission, and it should appear that he was not disabled for military service, and that he did not neglect or refuse to be mustered, he can, under section 4696 of the Revised Statutes, be treated as having been an officer of the United States. If he was a member of

RANK—Continued.

the militia of the State, not accepted into the service of the United States, there is no provision of law under which he could be allowed a pension."

Carpenter, James H. No. 274,591. Kirkwood, S. J., Secretary. Oct. 11, 1881. Vol. 2, p. 448.

9. The claimant was mustered as captain November 28, 1861, wounded November 24, 1863, and was discharged December 5, 1864. He was pensioned for his wound at "total" rate of his rank of captain. After the allowance of the claim he filed a commission, dated February 3, 1864, appointing him major, to rank from October 30, 1863, or from a date anterior to that on which he received the wound for which he was pensioned. It appearing, however, from the records of the War Department that the regiment was below the minimum strength, and that for that reason he could not be mustered as major, his claim that he should be pensioned as of that rank, was rejected.

On appeal, it was held "that in determining the question of pensionable rank under section 4696 of the Revised Statutes, if the organization for which a commission had been issued was so reduced in numbers that under the regulations of the War Department it was not entitled to an officer of the rank conferred by the commission, a vacancy did not exist in such rank within the meaning of the section."

Thomas, William A. Ctf. No. 63,068. Teller, H. M., Secretary, May 6, 1882. Vol. 9, p. 184.

10. Claimant was pensioned at the rate of "total" for the rank of sergeant. He claims that he should be pensioned as for the rank of first lieutenant, and from the rejection of this claim the appeal was entered.

The claimant was mustered in as sergeant September 3, 1862, and March 1, 1864, he was commissioned by the governor of the State to be first lieutenant *vice* Taylor, promoted. He was mustered in as first lieutenant September 13, 1864, to date from June 13, 1864. "The wounds on account of which he was pensioned were received May 7, 1864, between the date given in the body of the commission and the date from which he was mustered as first lieutenant."

The Adjutant-General reported that no vacancy existed for the claimant as first lieutenant until June 13, 1864, "caused on that date by the promotion and muster in of First Lieutenant Joseph M. Taylor to captain."

It was contended, on appeal, that this office "should determine whether a vacancy existed within the meaning of section 4696, regardless of the Army Regulations." * * *

But it was decided that "it is not within the jurisdiction of the Commissioner of Pensions to determine what conditions are requisite to constitute a vacancy in a military office." * * *

"There is nothing contained in section 4696, Revised Statutes, which may properly be construed as changing any pre-existing law or regulation to confer upon the Commissioner of Pensions the power to deter-

RANK—Continued.

mine whether, in any case affected by said section, a vacancy existed in the rank conferred by a commission. That is a question for decision by the officers of the War Department, and their report to your (Pension) office that such vacancy did not exist must be accepted as conclusive on that point."

Cases, Cyrus. Ctf. No. 51,004. Teller, H. M., Secretary. Oct. 9, 1882. Vol. 9, p. 404.

11. The claimant was mustered in as captain May 22, 1863, and was mustered out as such July 18, 1865. He was granted a pension on account of a disability received while holding the rank of captain to commence from the date of his discharge. He subsequently claimed that he should have been pensioned as of the rank of major. This claim was based on a commission issued by the governor of Pennsylvania, dated April 7, 1866, conferring upon him the rank of major from and after January 10, 1863, and it was rejected upon the ground that the commission had not been regularly issued.

In disposing of this case on appeal, the following language is used, viz: "The law bearing upon the case provides that any commission or Presidential appointment regularly issued to any person in the Army, Navy, or Marine Corps shall be taken to determine his rank from and after the date as given in the body of the commission or appointment conferring such rank; provided that a vacancy existed in the rank thereby conferred; that the person commissioned was not disabled for military duty; and he did not willfully refuse or neglect to be mustered.

"The commission conferring the rank of major on Mr. Hancock was not issued until after he had been mustered out and the members of the organization to which he had belonged had been discharged from the service of the United States.

"The Department concurs in the view that the commission as major issued to Mr. Hancock cannot be regarded as giving him that rank in the service of the United States, for the reason that before the date of its issue, both the officer himself and the organization for which the commission was issued, had been discharged from the service of the United States.

"Your decision rejecting the applicant's claim for pension as major, for the reason that the commission giving that rank was not regularly issued, is affirmed."

Hancock, Elisha A. Ctf. No. 58,869. Teller, H. M., Secretary. June 18, 1884. Vol. 11, p. 296.

12. Claimant was mustered in as a sergeant of Company B, Forty-fifth Regiment, Illinois Volunteers, November 20, 1861; as first lieutenant, June 20, 1862; and as captain, May 27, 1863. His commission as captain bore date April 28, 1863, to take effect from November 29, 1862. The report of the Adjutant-General showed that a vacancy existed in his company (B) on the 5th of March, 1863. The disability for

RANK—Continued.

which he claimed pension was incurred after that date, to wit, May 1, 1863, but before his muster-in as captain. On the opinion of the Adjutant-General that he was not entitled to recognition as captain for any period of time prior to his muster-in as such, he was pensioned as of the rank of first lieutenant.

On appeal, it was decided that as the claimant did not receive his commission as captain before the date on which he received the disability, he could not, therefore, have been mustered; and that in his case all the conditions existed which are requisite under the provisions of section 4696 of the Revised Statutes, to entitle him "in the matter of the rating of his pension to be treated as having held the rank of captain at the time his disability originated."

Van Dervort, Joshua. Ctf. No. 186,880. Teller, H. M., Secretary. May 19, 1883. Vol. 10, p. 423.

RULING OF THE COMMISSIONER OF PENSIONS.**RULING No. 99. May 1, 1885.**

"The application for rerating in the claim of Lewis J. Blair, late captain Company H Eighty-eighth Indiana Volunteers, certificate No. 104,280, under section 4696, Revised Statutes, and chapter 63, first session, Forty-eighth Congress, is rejected, because it is not shown when the commissions as major and lieutenant-colonel were issued by competent authority. Chapter 63, above referred to, applies to cases where commission bears date prior to June 20, 1863. In this case commission as major is dated October 19, 1863, and that of lieutenant-colonel October 29, 1863. The date of muster is July 12, 1864. It is not shown that at the time the claimant was injured he was performing any other duty than that of senior captain."

RANK, RELATIVE.

See NAVY, *pars.* 16, 17.

RATES OF PENSION.**Section 4695, Revised Statutes.**

The pension for total disability shall be as follows, namely: For lieutenant-colonel and all officers of higher rank in the military service and in the Marine Corps, and for captain and all officers of higher rank, commander, surgeon, paymaster, and chief engineer, respectively ranking with commander by law, lieutenant commanding and master commanding, in the naval service, thirty dollars per month; for major in the military service and in the Marine Corps, and lieutenant, surgeon, paymaster, and chief engineer, respectively ranking with lieutenant by law, and passed assistant surgeon in the naval service, twenty-five dollars per month; for captain in the military service and in the Marine Corps, chaplain in the Army, and provost-marshal, professor of mathematics,

RATES OF PENSION—Continued.

master, assistant surgeon, assistant paymaster, and chaplain in the naval service, twenty dollars per month; for first lieutenant in the military service and in the Marine Corps, acting assistant or contract surgeon, and deputy provost-marshal, seventeen dollars per month; for second lieutenant in the military service and in the Marine Corps, first assistant engineer, ensign, and pilot in the naval service, and enrolling officer, fifteen dollars per month; for cadet-midshipman, passed midshipman, midshipmen, clerks of admirals, and paymasters, and of other officers commanding vessels, second and third assistant engineer, master's mate, and all warrant-officers in the naval service, ten dollars per month; and for all other persons, whose rank or office is not mentioned in this section, eight dollars per month; and the masters, pilots, engineers, sailors, and crews upon the gunboats and war-vessels shall be entitled to receive the pension allowed herein to those of life rank in the naval service.

Sec. 2, 3 Mar., 1873; sec. 1, 14 July, 1862; sec. 1, 25 July, 1866; sec. 2, 3 Mar., 1865.

Section 4696, Revised Statutes.

(Rate of pension governed by rank of soldier at the time his disability was contracted, &c.)

See RANK.

Section 4697, Revised Statutes.

For the period commencing July fourth, eighteen hundred and sixty-four, and ending June third, eighteen hundred and seventy-two, those persons entitled to a less pension than hereinafter mentioned, who shall have lost both feet in the military or naval service and in the line of duty, shall be entitled to a pension of twenty dollars per month; for the same period those persons who, under like circumstances, shall have lost both hands or the sight of both eyes, shall be entitled to a pension of twenty-five dollars per month; and for the period commencing March third, eighteen hundred and sixty-five, and ending June third, eighteen hundred and seventy-two, those persons who under like circumstances shall have lost one hand and one foot shall be entitled to a pension of twenty dollars per month; and for the period commencing June sixth, eighteen hundred and sixty-six, and ending June third, eighteen hundred and seventy-two, those persons who under like circumstances shall have lost one hand or one foot shall be entitled to a pension of fifteen dollars per month; and for the period commencing June sixth, eighteen hundred and sixty-six, and ending June third, eighteen hundred and seventy-two, those persons entitled to a less pension than hereinafter mentioned, who by reason of injury received or disease contracted in the military or naval service of the United States and in the line of duty shall have been permanently and totally disabled in both hands, [or who shall have lost the sight of one eye, the other having been previously

RATES OF PENSION—Continued.

lost,] or who shall have been otherwise so totally and permanently disabled as to render them utterly helpless, or so nearly so as to require regular personal aid and attendance of another person, shall be entitled to a pension of twenty-five dollars per month; and for the same period those who under like circumstances shall have been totally and permanently disabled in both feet or in one hand and one foot, or otherwise so disabled as to be incapacitated for the performance of any manual labor, but not so much as to require regular personal aid and attention, shall be entitled to a pension of twenty dollars per month; and for the same period all persons who under like circumstances shall have been totally and permanently disabled in one hand or one foot, or otherwise so disabled as to render their inability to perform manual labor equivalent to the loss of a hand or foot, shall be entitled to a pension of fifteen dollars per month.

Sec. 3, 3 Mar., 1873; sec. 5, 4 July, 1864; see sec. 1, 6 June, 1866, and sec. 5, 25 July, 1866; sec. 3, 3 Mar., 1865. For loss of hand and foot, see act 28 Feb., 1877. For loss of both hands, both eyes, or both feet, see act 17 June, 1878, and 3 Mar., 1879. For leg amputated at hip joint, see act 3 Mar., 1879. For arm amputated at shoulder joint see act 3 March, 1885. Sec. 1, act 6 June, 1866; sec. 12, act 27 July, 1868. As to total and permanent helplessness, see amendment act 18 June, 1874, and act 16 June, 1880.

Section 4698, Revised Statutes.

From and after June fourth, eighteen hundred and seventy-two, all persons entitled by law to a less pension than hereinafter specified, who while in the military or naval service of the United States, and in line of duty, shall have lost the sight of both eyes, or shall have lost the sight of one eye, the sight of the other having been previously lost, or shall have lost both hands, or shall have lost both feet, or been permanently and totally disabled in the same, or otherwise so permanently and totally disabled as to render them utterly helpless, or so nearly so as to require the regular personal aid and attendance of another person, shall be entitled to a pension of thirty-one dollars and twenty-five cents per month; and all persons who, under like circumstances, shall have lost one hand and one foot, or been totally and permanently disabled in the same, or otherwise so disabled as to be incapacitated for performing any manual labor, but not so much as to require regular personal aid and attendance, shall be entitled to a pension of twenty-four dollars per month; and all persons who, under like circumstances, shall have lost one hand, or one foot, or been totally and permanently disabled in the same, or otherwise so disabled as to render their incapacity to perform manual labor equivalent to the loss of a hand or foot, shall be entitled to a pension of eighteen dollars per month: *Provided*, That all persons who, under like circumstances, have lost a leg above the knee, and in consequence thereof are so disabled that they cannot use artificial limbs, shall be rated in the second class and receive twenty-four dollars per month from and after June fourth, eighteen hundred and seventy-two; and all persons who, under like circumstances, shall have lost the

RATES OF PENSION—Continued.

hearing of both ears shall be entitled to a pension of thirteen dollars per month from the same date: *Provided*, That the pension for a disability not permanent, equivalent in degree to any provided for in this section, shall, during the continuance of the disability in such degree, be at the same rate as that herein provided for a permanent disability of like degree.

Sec. 4, 3 Mar., 1873; act 8 June, 1872. As to total and permanent helplessness, see act 18 June, 1874, and act 16 June, 1880. For loss of hand and foot, see act 28 Feb., 1877. For loss of both eyes, both hands, or both feet, see act 17 June, 1878, and 3 Mar., 1879; see act 3 Mar., 1883. For leg amputated at hip joint, see act 3 Mar., 1879. For arm amputated at shoulder joint see act 3 Mar., 1885; sec. 4, 3 Mar., 1873; see act June 18, 1874, *Addenda* sec. 4, 3 Mar., 1873.

Section 4698½, Revised Statutes.

Except in cases of permanent specific disabilities, no increase of pension shall be allowed to commence prior to the date of the examining surgeon's certificate establishing the same, made under the pending claim for increase, and in this, as well as all other cases, the certificate of an examining surgeon, or of a board of examining surgeons, shall be subject to the approval of the Commissioner of Pensions.

Sec. 4, 3 Mar., 1873; see sec. 4, 10 Apr., 1866.

Section 4699, Revised Statutes.

The rate of eighteen dollars per month may be proportionately divided for any degree of disability established for which section forty-six hundred and ninety-five makes no provision.

Sec. 5, 3 Mar., 1873; see act 3 Mar., 1883.

Act approved June 18, 1874.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all persons who are now entitled to pensions under existing laws, and who have lost either an arm at or above the elbow, or a leg at or above the knee, shall be rated in the second class, and shall receive twenty-four dollars per month: *Provided*, That no artificial limbs, or commutation therefor, shall be furnished to such persons as shall be entitled to pensions under this act.

See secs. 4697, 4698, R. S.; see act 3 Mar., 1879, and act 3 Mar., 1885.

SEC. 2. That this act shall take effect from and after the fourth day of June, eighteen hundred and seventy-four.

• **Act approved June 18, 1874.**

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section four of the act entitled "An act to revise, consolidate, and amend the laws relating to pensions," and approved March third, eighteen hundred and seventy-three, be so amended that all persons who, while in the military or naval service of the United States, and in the line of duty, shall have

RATES OF PENSION—Continued.

been so permanently and totally disabled as to require the regular personal aid and attendance of another person, by the loss of the sight of both eyes, or by the loss of the sight of one eye, the sight of the other having been previously lost, or by the loss of both hands, or by the loss of both feet, or by any other injury resulting in total and permanent helplessness, shall be entitled to a pension of fifty dollars per month; and this shall be in lieu of a pension of thirty-one dollars and twenty-five cents per month granted to such person by said section: *Provided*, That the increase of pension shall not be granted by reason of any of the injuries herein specified, unless the same have resulted in permanent, total helplessness, requiring the regular personal aid and attendance of another person.

SEC. 2. That this act shall take effect from and after the fourth day of June, eighteen hundred and seventy-four.

See secs. 4697, 4698, R. S.; see amendment act 16 June, 1880.

Act approved February 28, 1877.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all persons who, while in the military or naval service of the United States, and in the line of duty, shall have lost one hand and one foot, or been totally and permanently disabled in both, shall be entitled to a pension for each of such disabilities, and at such a rate as is provided for by the provisions of the existing laws for each disability: *Provided*, That this act shall not be so construed as to reduce pensions in any case.

See secs. 4697, 4698, R. S.

Act approved March 3, 1877.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act, the pension for total disability of passed assistant engineers, assistant engineers, and cadet engineers in the naval service, respectively, shall be the same as the pensions allowed to officers of the line in the naval service with whom they have relative rank; and that all acts or parts of acts inconsistent herewith be, and are hereby, repealed.

Act approved June 17, 1878.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That on and after the passage of this act, all soldiers and sailors who have lost either both their hands or both their feet or the sight of both eyes in the service of the United States, shall receive, in lieu of all pensions now paid them by the Government of the United States, and there shall be paid to them, in the same manner as pensions are now paid to such persons, the sum of seventy-two dollars per month.

See secs. 4697, 4698, R. S.; see amendment act 3 Mar., 1879; see act 16 June, 1880.

RATES OF PENSION—Continued.**Act approved June 18, 1878.**

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after July sixteenth, eighteen hundred and sixty-two, pensions granted to lieutenant-commanders in the Navy for disability, or on account of their death, shall be the same as theretofore provided for lieutenants commanding.

Act approved March 3, 1879.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act of June seventeenth, eighteen hundred and seventy-eight, entitled "An act to increase the pensions of certain soldiers and sailors who have lost both their hands or both their feet, or the sight of both eyes, in the service of the country," be so construed as to include all soldiers and sailors who have become totally blind from causes occurring in the service of the United States.

See act 17 June, 1878; see secs. 4697, 4698, R. S.; see act 16 June, 1880.

Act approved March 3, 1879.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all pensioners now on the pension-rolls, or who may hereafter be placed thereon, for amputation of either leg at the hip-joint, shall receive a pension at the rate of thirty-seven dollars and fifty cents per month from the date of the approval of this act.

See secs. 4697, 4698, R. S.; see act Mar. 3, 1885.

Act approved June 16, 1880.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all soldiers and sailors who are now receiving a pension of fifty dollars per month, under the provisions of an act entitled "An act to increase the pension of soldiers and sailors who have been totally disabled," approved June eighteenth, eighteen hundred and seventy-four, shall receive, in lieu of all pensions now paid them by the Government of the United States, and there shall be paid them in the same manner as pensions are now paid to such persons, the sum of seventy-two dollars per month.

See secs. 4697, 4698, R. S.

SEC. 2. All pensioners whose pensions shall be increased by the provisions of this act from fifty dollars per month to seventy-two dollars per month shall be paid the difference between said sums monthly, from June seventeenth, eighteen hundred and seventy-eight, to the time of the taking effect of this act.

See act 18 June, 1874, act 3 Mar., 1879, act 17 June, 1878.

RATES OF PENSION—Continued.**Act approved March 3, 1883.**

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act all persons on the pension-roll, and all persons hereafter granted a pension, who, while in the military or naval service of the United States, and in the line of duty, shall have lost one hand or one foot, or been totally or permanently disabled in the same, or otherwise so disabled as to render their incapacity to perform manual labor equivalent to the loss of a hand or foot, shall receive a pension of twenty-four dollars per month; that all persons now on the pension-roll, and all persons hereafter granted a pension, who in like manner shall have lost either an arm at or above the elbow, or a leg at or above the knee, or shall have been otherwise so disabled as to be incapacitated for performing any manual labor, but not so much as to require regular personal aid and attendance, shall receive a pension of thirty dollars per month: *Provided*, That nothing contained in this act shall be construed to repeal section forty-six hundred and ninety-nine of the Revised Statutes of the United States, or to change the rate of eighteen dollars per month therein mentioned to be proportionately divided for any degree of disability established for which section forty-six hundred and ninety-five makes no provision.*

See sec. 4697, 4698, R. S.; act 18 June, 1874; see sec. 4699, R. S.

Act approved March 3, 1885.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all soldiers and sailors of the United States who have an arm taken off at the shoulder joint, caused by injuries received in the service of their country while in the line of duty, and who are now receiving pensions, shall have their pensions increased to the same amount that the law now gives to soldiers and sailors who have lost a leg at the hip-joint; and this act shall apply to all who shall hereafter be placed on the pension-roll.

See sec. 4697, 4698, R. S.; act 3 Mar., 1879.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. Rates of pension are governed by rank of soldier at time disability was contracted.

Reinoehl, A. C. App. No. 63,587. Harlan, James, Secretary. July 20, 1865. Vol. 2, p. 181.

2. In the absence of opposing proof should be determined by the certificate of the examining surgeon.

Nolte, Henry. Ctf. No. 85,047. Browning, O. H., Secretary. Jan. 10, 1868. Vol. 2, p. 65.

3. Under ante-rebellion laws, except Revolutionary pensions, varied under section 3, act of July 25, 1866.

Porter, Evelina. Cox, J. D., Secretary. Feb. 12, 1870. Vol. 1, p. 72.

RATES OF PENSION—Continued.

4. Under special act, if none is specified, is governed by the degree of the disability.

St. Louis, George J. Ctf. No. 121,225. Delano, C., Secretary. Mar. 10, 1873. Vol. 1, p. 308.

5. For disabilities not permanent and specific should be increased in accordance with the increased rate for higher disabilities.

Krise, O. H. P. Ctf. No. 75,652. Delano, C., Secretary. June 25, 1874. Vol. 3, p. 248.

6. No intermediate grade between \$18 and \$24 allowed by law.

Obsolete. See act 3 Mar., 1883.

Moore, George P. Ctf. No. 54,145. Delano, C., Secretary. Mar. 19, 1875. Vol. 3, p. 479.

7. For similar disabilities, a uniformity in rates should be observed.

Weaver, Gottlieb. Ctf. No. 11,235. Delano, C., Secretary. June 2, 1875. Vol. 4, p. 81.

8. Originally allowed should not be disturbed in claims for renewal.

Fox, James. Ctf. No. 50,603. Cowen, B. R., Acting Secretary. Nov. 3, 1875. Vol. 4, p. 137.

9. May be corrected without the application of the provisions of section 4698 $\frac{1}{2}$, Revised Statutes.

Garvie, William. Ctf. No. 59,182. Chandler, Z., Secretary. Apr. 11, 1876. Vol. 4, p. 267.

10. Widows to be rated according to rank of husband at the time he received the injury which resulted in the fatal disease.

McTaggart, Mattie. Ctf. No. 178,278. Schurz, C., Secretary. Dec. 11, 1878. Vol. 5, p. 281. (See also case of Medhurst, Mary E. Ctf. No. 177,796. Schurz, C., Secretary. Jan. 6, 1879. Vol. 7, p. 149; vol. 8, p. 193. See section 4696, Revised Statutes.)

11. Unless specifically provided for, there is no provision of law by which disabilities can be considered separately and compounded so as to allow for all the pension which each, considered separately, would aggregate.

McCullum, Abram. Ctf. No. 35,730. Bell, A., Acting Secretary. Sept. 5, 1879. Vol. 6, p. 451. (See also case of Fay, John S. Ctf. No. 23,111. Schurz, C., Secretary. Aug. 1, 1877. Vol. 5, p. 166.)

See also case of Krise, O. H. P., par. 19, and case of McDonough, par. 6, under title of RE-RATING.

12. When increased by an order of the Secretary of the Interior or by a ruling of the Commissioner of Pensions will not be allowed to commence prior to the date of such order or ruling.

Shearman, Addison P. Ctf. No. 200,870. Teller, H. M., Secretary. Mar. 2, 1885. Vol. 11, p. 456. Also case of Shelly, Richard L. Ctf. No. 278,917. Muldrow, H. L., Acting Secretary. Apr. 4, 1885. Vol. 11, p. 478.

RATES OF PENSION under acts of June 6, 1866; June 8, 1873; Mar. 3, 1873; June 18, 1874; Feb. 27, 1877; June 17, 1878; June 16, 1880; and Mar. 3, 1883. (See INCREASE.)

13. FOR DEAFNESS.

The maximum rate of \$13 per month (the rate provided by law for total deafness of both ears) will be considered as $\frac{1}{3}$ disability, as fixed by section 4699, Revised Statutes, and that inferior degrees will be rated at $\frac{1}{4}$, $\frac{1}{5}$, &c., to commence with the actual degree of disability found from partial deafness.

Instructions: Teller, H. M., Secretary. Apr. 3, 1884. Vol. 11, p. 179.

RATES OF PENSION—Continued.**RULING OF THE COMMISSIONER OF PENSIONS.****RULING No. 51. February 1, 1881.**

In adjudicated pension claims, on account of deafness, where there has been a reduction of rate under rule 117, there will be a reissue, without a formal application therefor, fixing the rate as directed in the letter of instruction of the honorable Secretary of the Interior, dated December 24, 1879, and the increase will "commence from the date when the reduced rate took effect under said ruling 117," as provided in the honorable Secretary's decision of December 11, 1880, in the case of Frederick Heidelman, certificate No. 130,007.

14. FOR DEFORMITY.

See CASE OF O. H. P. KRISE, PARAGRAPH 17 THIS TITLE.

15. FOR HELPLESSNESS.

Must be determined by the degree thereof, as shown in such cases.

[NOTE.—Stanley case: \$50 should be allowed a complete invalid and \$31.25 to a comparative invalid.]

Schmidt, Henry. Ctf. No. 35,234. Chandler, Z., Secretary. Feb. 11, 1876. Vol. 4, p. 197. (See case of Stanley, Cyrus W. Vol. 4, p. 206.)

16. FOR HERNIA.

(a) The rule of the Office allowing one-half of a total pension for single uncomplicated hernia is *approved*, and subsequent increase must be governed by the provisions of section 4698½, Revised Statutes,

Hendricks, Arthur. Ctf. No. 122,905. Bell, A., Acting Secretary. Sept. 1, 1880. Vol. 7, p. 472.
See Hernia.

(b) (1) In cases of hernia on one side, not complicated, small and easily retained by truss, the rate of pension should be for *one-half* disability.

(2) In similar cases as above, of double hernia, the rate of pension should be three-fourths.

(3) In cases of hernia of one side, being difficult to retain by truss, three-fourths should be allowed.

(4) In cases of double hernia, difficult to retain by a truss, rates may be double to that allowed for hernia retained without difficulty.

(5) In cases above mentioned, complications may exist which may warrant allowance of higher rates than stated.

(6) In cases where hernia cannot be controlled and retained by a truss, the disability will be much in excess of that heretofore referred to, and the disability must be estimated by comparison with that produced by the loss of hand or foot.

(7) With a view to secure uniformity in the rates of pension which have been heretofore allowed, in excess of that indicated, the cases should be readjusted from the date of last payment, but no case should

RATES OF PENSION—Continued.

be disturbed, except where it clearly appears that the rates exceed those which should have been allowed.

Instructions: Kirkwood, S. J., Secretary. Aug. 11, 1881. Vol. 8, p. 378.

RULING OF THE COMMISSIONER OF PENSIONS.**RULING No. 24. August —, 1881.**

In accordance with the instructions of the honorable Secretary of the Interior, under date of August 11, 1881, *hernia* will hereafter be rated according to the degree of disability resulting therefrom, as set forth in said instructions, under which no cases are to be disturbed which have been heretofore rated, except those in which it clearly appears that the present rates exceed those which should have been allowed.

17. FOR LOSS OF SIGHT OF ONE EYE (DEFORMITY).

(1) Pension was allowed at the rate of \$8 per month for a gunshot wound of face and the loss of the sight of one eye. On an application for increase, the papers in the case were submitted to the honorable Secretary, with an opinion of the Medical Referee that the deformity caused by the wound of face should be rated at \$8, and the loss of sight of the eye at \$4 per month, or a total of \$12 per month. These ratings were approved by the honorable Secretary, who also approved of the recommendation made by the Medical Referee, that a distinction should be made in the ratings for the loss of an eye and the loss of the sight of an eye—the former constituting the more serious disability of the two. He *held* further, that the rate of \$4 per month, allowed prior to the passage of the act of June 6, 1866, for the loss of an eye, was too low, and in view of the liberalizing spirit manifested by Congress in scaling pensions in its passage of said act and subsequent acts, he suggested that the subject of ratings of pensions by this Office “be thoroughly revised and modified for the purpose of more fully assimilating them to the view which influenced Congress in enacting the more liberal laws.”

Krise, O. H. P. Ctf. No. 75,652. Delano, C., Secretary. June 25, 1874. Vol. 3, p. 218.

(2) From and after April 3, 1884, the rate of pension “for the loss of sight of one eye, when the other eye is not affected by sympathy,” will be total and according to rank, and “the rate of third grade, or \$18 per month, will be allowed for the loss of the eye and the consequent deformity in cases where that amount is less than total for rank.”

Instructions: Teller, H. M., Secretary. Apr. 3, 1884. Vol. 11, p. 179.

18. FOR NON-SPECIFIC DISABILITIES.

The disability, consisting of wound of left hand causing a loss of the second finger at the second joint and a part of the first joint of the index finger: *Held*, that there is no law under which a specific amount of pension is provided for the disability described.

Stevens, Minor. Ctf. No. 162,832. Schurz, C., Secretary. Dec. 11, 1879. Vol. 7, p. 112.

19. REDUCTION OF.

See REDUCTION OF RATES OF PENSION.

RATES OF PENSION—Continued.**RULINGS OF THE COMMISSIONER OF PENSIONS.****RULING No. 57.**

The following tables show the rates fixed by law for "total" and "specific" disabilities and the rates fixed by the Pension Office for certain disabilities not specified by law:

*Rates fixed by law for total disability.***ARMY.**

	Per month.
Lieutenant-colonel and all officers of higher rank.....	\$30 00
Major, surgeon, and paymaster	25 00
Captain, provost-marshal, and chaplain.....	20 00
First lieutenant, assistant surgeon, deputy provost-marshal, and quarter-master.....	17 00
Second lieutenant and enrolling officer.....	15 00
All enlisted men	8 00

NAVY AND MARINE CORPS.

Captain and all officers of higher rank; commander, lieutenant commanding and master commanding, surgeon, paymaster, and chief engineer ranking with commander by law. Lieutenant-colonel and all of higher rank in Marine Corps	30 00
Lieutenant, passed assistant surgeon, surgeon, paymaster, and chief engineer ranking with lieutenant by law, and major in Marine Corps	25 00
Master, professor of mathematics, assistant surgeon, paymaster, and chaplain, and captain in Marine Corps	20 00
First lieutenant in Marine Corps.....	17 00
First assistant engineer, ensign, and pilot, and second lieutenant in Marine Corps.....	15 00
Cadet midshipman, passed midshipman, midshipmen, clerks of admirals, paymasters, and of officers commanding vessels, second and third assistant engineers, master's mate, and warrant officers	10 00
All enlisted men except warrant officers	8 00

Rates and disabilities specified by law.	From July 4, 1864.	From Mar. 3, 1865.	From June 6, 1866.	From June 4, 1872.	From June 4, 1874.	From Feb. 28, 1877.	From June 17, 1878.	From Mar. 3, 1879.	Act of June 16, 1880.
Loss of both hands	\$25 00	.....	.....	\$31 25	\$50 00	.....	\$72 00	.....	.....
Loss of both feet	20 00	.....	.....	31 25	50 00	.....	72 00	.....	.....
Loss of both eyes	25 00	.....	.....	31 25	50 00	.....	72 00	.....	.....
Loss of an eye, the sight of the other previously lost .....	.....	.....	\$25 00	31 25	50 00	.....	72 00	.....	.....
Loss of one hand and one foot .....	.....	\$20 00	.....	24 00	.....	\$36 00	.....	.....	.....
Total disability in one hand and one foot .....	.....	.....	20 00	24 00	.....	36 00	.....	.....	.....
Loss of a hand or a foot .....	.....	.....	15 00	18 00	.....	.....	.....	.....	.....
Amputation at or above elbow or knee .....	.....	.....	15 00	18 00	24 00	.....	.....	.....	.....
Amputation at hip-joint .....	.....	.....	15 00	18 00	24 00	.....	.....	\$37 50	.....
Inability to perform manual labor .....	.....	.....	20 00	24 00	.....	.....	.....	.....	.....
Regular aid and attendance .....	.....	.....	25 00	31 25	50 00	.....	.....	.....	.....
Total disability in both hands .....	.....	.....	25 00	31 25	50 00	.....	.....	.....	.....

Extends the provisions of act of June 17, 1878.

RATES OF PENSION—Continued.*Rates fixed by office for certain disabilities not specified by law.*

Loss of an eye	one-half.
Loss of a thumb	one-half.
Loss of an index finger	three-eighths.
Loss of a finger	one-fourth.
Loss of a toe	one-fourth.
Loss of a great toe	one-half.
Inguinal hernia	one-half.
Double inguinal hernia	three-fourths.
Anchylosis of elbow-joint	total.

RULING No. 80. April 3, 1884.*Rates and disabilities specified by law.*

Ratings.	From July 4, 1864.	From Mar. 3, 1865.	From June 6, 1866.	From June 4, 1872.	From June 4, 1874.	From Feb. 23, 1877.	From June 17, 1878.	From Mar. 3, 1879.	From Mar. 3, 1880.	From Mar. 3, 1885.
Loss of both hands *	\$25 00			\$31 25	\$50 00		\$72 00			
Loss of both feet *	20 00			31 25	50 00		72 00			
Loss of both eyes *	25 00			31 25	50 00		72 00			
Loss of an eye, the other lost before enlistment *			\$25 00	31 25	50 00		72 00			
Loss of one hand and one foot		\$20 00		24 00		\$36 00				
Total disability in one hand and one foot			20 00	24 00		36 00				
Loss of a hand or a foot †			15 00	18 00					\$24 00	
Amputation at or above elbow or knee †			15 00	18 00	24 00				30 00	
Amputation at hip joint			15 00	18 00	24 00			\$37 50		
Inability to perform manual labor			20 00	24 00					30 00	
Regular aid and attendance.			25 00	31 25	50 00		*72 00			
Total disability in both hands			25 00	31 25	50 00		72 00			
Total deafness				18 00						
Amputation at shoulder joint.										\$37 50

* Seventy-two dollars from June 17, 1878, where the rate was \$50 under act of June 18, 1874, and granted to date prior to June 16, 1880. Act of June 16, 1880, allows \$72 in cases where rate of disability, not specific, is \$50 prior to June 16, 1880.

† Or any disability equivalent to the loss of either hand or foot.

‡ Or any disability causing inability to perform manual labor.

RATES OF PENSION—Continued.

Rates fixed by the Pension Office for certain disabilities not specified by law.

[Anchylosis of ankle or wrist, without complications, is given as a basis for a total disability, according to rank, with complications, and any disability in its effects disabling in degree more than total (where total of rank is \$8 per month), and less than \$18 per month, may be rated at—the loss of a part of a hand or a foot, on a basis of \$18 per month, would rate from $\frac{1}{16}$ to $\frac{1}{16}$.]

Disabilities.	Old rate.	April 3, 1881.
Anchylosis of elbow-joint.....	Total.	$\frac{1}{16}$
Anchylosis of knee-joint.....	Total.	$\frac{1}{16}$
Anchylosis of ankle.....	$\frac{1}{16}$	Total.
Anchylosis of wrist.....	$\frac{1}{16}$	Total.
Loss of sight of one eye.....	$\frac{1}{16}$	Total.
Loss of one eye with deformity.....		$\frac{1}{16}$
Total or nearly total deafness of one ear.....	$\frac{1}{16}$	$\frac{1}{16}$
Slight deafness of both ears.....	$\frac{1}{16}$	$\frac{1}{16}$
Severe or total deafness of one ear and slight of other.....	$\frac{1}{16}$	$\frac{1}{16}$
Severe deafness of both ears.....	$\frac{1}{16}$	$\frac{1}{16}$
Total deafness of one ear and severe of other.....	$\frac{1}{16}$	$\frac{1}{16}$
Deafness of both ears existing in a degree nearly total.....	$\frac{1}{16}$	$\frac{1}{16}$
Total deafness in cases where rate for a total disability is less than \$13 per month.....	13	
Total deafness in cases where rate for a total disability is more than \$13 per month.....	Total.	Total.
Loss of the palm and all the fingers, the thumb remaining.....	$\frac{1}{16}$	$\frac{1}{16}$
Loss of thumb, index, middle, and ring fingers.....	$\frac{1}{16}$	$\frac{1}{16}$
Loss of all the fingers, the thumb and palm remaining.....	$\frac{1}{16}$	
Loss of thumb, index, and middle fingers.....	$\frac{1}{16}$	
Loss of thumb and index finger.....	$\frac{1}{16}$	
Loss of index, second, and third fingers.....	$\frac{1}{16}$	
Loss of little, middle, and ring fingers.....	$\frac{1}{16}$	
Loss of index and second fingers.....	Total.	
Loss of little and middle fingers.....	Total.	
Loss of little and ring fingers.....	$\frac{1}{16}$	
Loss of thumb.....	$\frac{1}{16}$	Total.
Loss of index finger.....	$\frac{1}{16}$	$\frac{1}{16}$
Loss of any other finger (without complications).....	$\frac{1}{16}$	
Loss of all the toes.....	$\frac{1}{16}$	
Loss of great, second, and third toes.....	Total.	
Loss of great toe and metatarsal.....	Total.	
Loss of great and second toes.....	$\frac{1}{16}$	
Loss of great toe.....	$\frac{1}{16}$	
Loss of any toe and metatarsal.....	$\frac{1}{16}$	
Loss of any other toe.....	$\frac{1}{16}$	
Chopart's amputation of foot (good results).....	$\frac{1}{16}$	
Perigoff's modification of Syme's (no equivalent).....	$\frac{1}{16}$	$\frac{1}{16}$
Double inguinal hernia.....	$\frac{1}{16}$	$\frac{1}{16}$
Inguinal scrotal or ventral hernia.....	$\frac{1}{16}$	Total.
Small varicocele.....	$\frac{1}{16}$	$\frac{1}{16}$
Well-marked varicocele.....	$\frac{1}{16}$	$\frac{1}{16}$

RATES OF PENSION—Continued.

RULING No. 136. October 7, 1885.

Table of rates fixed by the Commissioner of Pensions for certain disabilities not specified by law.

Disabilities.	Old rate.	Mar. 3, 1873.	Apr. 3, 1884.	Oct. 7, 1885.
Anchylosis of elbow-joint.....	Total		1½	
Anchylosis of knee-joint.....	Total		1½	
Anchylosis of ankle.....	½		Total	
Anchylosis of wrist.....	½		Total	
Loss of sight of one eye.....	½		Total	
Loss of one eye with deformity.....			1½	
Total, or nearly total, deafness of one ear.....	½		½	
Slight deafness of both ears.....	½		¾	
Severe or total deafness in one ear and slight in other.....	½		1½	
Severe deafness of both ears.....	½		¾	1½
Total deafness of one ear and severe of other.....	½		1½	1½
Deafness of both ears existing in a degree nearly total.....	½		1½	1½
Total deafness in cases of commissioned officers.....	Total		Total	
Loss of palm of hand and all the fingers, the thumb remaining.....	Total	1½	1½	
Loss of thumb, index, middle, and ring fingers.....	Total	1½	1½	
Loss of all the fingers, thumb and palm remaining.....	Total	1½		
Loss of thumb, index, and middle fingers.....	Total	1½		
Loss of thumb and index finger.....	Total	1½		
Loss of index, middle, and ring fingers.....	Total	1½		
Loss of middle, ring, and little fingers.....	Total	1½		
Loss of index and middle fingers.....	Total			
Loss of little and middle fingers.....	Total			
Loss of little and ring fingers.....	½			
Loss of thumb.....	½		Total	
Loss of index finger.....	½		½	
Loss of any other finger, without complications.....	½			
Loss of all the toes of one foot.....	Total	1½		
Loss of great, second, and third toes.....	Total			
Loss of great toe and metatarsal.....	Total			
Loss of great and second toes.....	½			
Loss of great toe.....	½			
Loss of any toe and metatarsal.....	½			
Loss of any other toe.....	½			
Chopart's amputation of foot, with good results.....	Total	1½		
Perigoff's modification of Syme's (no equivalent).....	Total	1½	1½	
Double inguinal hernia.....	½		1½	
Inguinal scrotal or ventral hernia.....	½		Total	
Small varicocele.....	½		½	
Well-marked varicocele.....	½		½	
Loss of ring and middle fingers.....	½			
Loss of index and little fingers.....	½			
Loss of thumb and little finger.....	Total			1½
Loss of thumb, index, and little fingers.....	Total	1½		
Anchylosis of shoulder-joint.....	Total	1½		

READJUSTMENT OF RATES.*See* RE-RATING.**RECONSIDERATION OF ADJUDICATED CLAIMS.****RULING OF THE COMMISSIONER OF PENSIONS.****RULING No. 58. December 31, 1866.**

Adjudicated claims may be reconsidered on receipt of additional evidence, or for other good reason.

(See last clause of Order No. 65, under head of "Rejected claims.")

RECONSIDERATION OF DECISIONS OF FORMER SECRETARIES OF THE INTERIOR.*See* SECRETARY OF THE INTERIOR.**RECORD EVIDENCE.***See* EVIDENCE, RECORD, and ADVERSE RECORD.**RECORD EVIDENCE OF SERVICE IN WAR OF 1812.***See* SERVICE PENSIONS, WAR OF 1812, *par.* 23, 24.**RECURRENT DISEASES.****DECISION OF THE SECRETARY OF THE INTERIOR.**

In cases of recurrent diseases, such as rheumatism, pensioners' names should not be dropped from the rolls, although long periods may elapse when the symptoms do not appear. The converse of this proposition is true in pending cases.

Walker, Robert P. *Clt.* No. 94,526. Schurz, C., Secretary. Dec. 9, 1880. Vol. 8, p. 66.

REDUCTION OF RATES OF PENSION.**Section 3, act of June 21, 1879.**

The following is a part of a section enacted as a portion of "An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and eighty, and for other purposes," approved June 21, 1879:

SEC. 3. That sections forty-seven hundred and seventy-one, forty-seven hundred and seventy-two, and forty-seven hundred and seventy-three of the Revised Statutes of the United States, providing for biennial examinations of pensioners, are hereby repealed: *Provided*, That the Commissioner of Pensions shall have the same power as heretofore to order special examinations, whenever, in his judgment, the same may be necessary, and to increase or reduce the pension according to right and justice; but in no case shall a pension be withdrawn or reduced except upon notice to the pensioner and a hearing upon

REDUCTION OF RATES OF PENSION—Continued.

sworn testimony, except as to the certificate of the examining surgeon. * * *

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. Rates of pensions which have been erroneously reduced may be restored to the rates originally paid, or increased, as the circumstances indicate, without the application of the provisions of section 4698½, Revised Statutes, and the increased rate should be made to commence from the date of reduction.

Garole, William. Ctf. No. 59,182. Chandler, Z., Secretary. Apr. 11, 1876. Vol. 4, p. 267.

Hale, William H. Ctf. No. 43,057. Schurz, C., Secretary. Nov. 26, 1879. Vol. 7, p. 83.

Subera, Jacob. Ctf. No. 60,450. Schurz, C., Secretary. Jan. 23, 1880. Vol. 7, p. 183.

Langenberg, Henry. No. 83,836. Bell, A., Acting Secretary. Dec. 15, 1881. Vol. 9, p. 36.

2. Where an error of judgment has been made and a higher rate of pension allowed than that to which the claimant is entitled, the pension should be reduced to its proper rate upon discovery of the error.

Sain, William H. Ctf. No. 91,320. Schurz, C., Secretary. Mar. 4, 1880. Vol. 7, p. 243.

Eisholtz, Hugo. Ctf. No. 72,378. Kirkwood, S. J., Secretary. Mar. 26, 1881. Vol. 8, p. 179.

RULING OF THE COMMISSIONER OF PENSIONS.

RULING No. 138½. October 31, 1885.

Rates of pension granted under the general law may be reduced or increased to conform to the degree of pensionable disability which may be found to exist upon medical examinations which, at any time, may be ordered by the Commissioner of Pensions.

Cases of reduction or proposed reduction are subject to the provisions of section 3, of the act of June 21, 1879.

A vested right in and to the *particular* sum allowed and paid under a pension certificate does not exist.

Robison, J. Boyd. Ctf. No. 16,071.

REGIMENTAL SURGEONS.**DECISION OF THE SECRETARY OF THE INTERIOR,**

Regimental surgeon's evidence as to contraction of disability not indispensable if claim is otherwise established.

Welch, Irvin. App. No. 62,051. Browning, O. H., Secretary. Oct. 10, 1886. Vol. 1, p. 189.

See EVIDENCE, MEDICAL.

REGULATIONS.

Regulations relating to Army and Navy pensions issued by the Commissioner of Pensions, in conformity to the provisions of section 4748, Revised Statutes, for the guidance of claimants and attorneys.

Section 4748, Revised Statutes.

That the Commissioner of Pensions, on application being made to him in person, or by letter, by any claimant or applicant for pension, bounty-

REGULATIONS—Continued.

land, or other allowance required by law to be adjusted or paid by the Pension Office, shall furnish such person, free of all expense, all such printed instructions and forms as may be necessary in establishing and obtaining said claim; and on the issuing of a certificate of pension or of a bounty-land warrant, he shall forthwith notify the claimant or applicant, and also the agent or attorney in the case, if there be one, that such certificate has been issued, or allowance made, and the date and amount thereof.

Sec. 22, 3 Mer., 1873; sec. 9, 14 July, 1862.

See **BLANK FORMS OF DECLARATION FOR ARMY AND NAVY PENSIONS.**

An observance of the following instructions will generally enable a claimant to intelligibly present his claim for pension to the Commissioner for settlement:

DECLARATIONS, INVALID.

A declaration must be filed, which must be executed in conformity to the provisions of section 4714, Revised Statutes.

Blank forms for a declaration will be furnished to claimants upon application therefor, but will not be furnished to attorneys and claim agents.

See **BLANKS &c.**

The declaration should set forth the company and regiment in which the applicant served, the name of the commanding officer of the company or organization, and the dates of enlistment and discharge. In Navy cases the vessel upon which the claimant served should be stated. If the claim is made on account of a wound or injury, the declaration should set forth the nature and locality of the wound or injury, the time when, the place where, and the circumstances under which it was received, and the duty upon which the applicant was engaged.

See **DECLARATIONS.**

If the wound or injury was accidental, the applicant should state whether it happened through his own agency or that of other persons, and he should minutely detail the circumstances under which it was received.

If the claim is made on account of disability from disease, the applicant should state in his declaration when the disease first appeared, the place where he was when it appeared, and the duty upon which he was at the time engaged. He should also detail the circumstances of exposure to the cases which, in his opinion, produced the disease. Whether the application be made on account of disability from injury or disease, the claimant should state the names, numbers, and localities of all hospitals in which he received medical or surgical treatment, giving the dates of his admission thereto as correctly as he may be able.

REGULATIONS—Continued.

The applicant should state whether he was in the military or naval service prior to or after the term of service in which his disability originated.

The applicant should state his post-office address. In cities, the street and number of his residence should be given.

The identity of the applicant must be shown by the testimony of two credible witnesses, who must appear with him before the officer by whom the declaration may be taken.

NATURE OF THE EVIDENCE REQUIRED TO SUSTAIN A CLAIM FOR INVALID PENSION.

As soon as practicable after the receipt of a claim for pension, application will be made by this office, in Army cases, to the Adjutant-General and the Surgeon-General of the Army, for a report of the applicant's service and evidence in regard to the disability alleged which may appear upon the rolls and other records in the possession of those officers. In Navy cases, application for such evidence will be made to the proper bureaus of the Navy Department.

See EVIDENCE.

When the records of the War or Navy Department do not furnish satisfactory evidence that the disability on account of which the claim is made originated in the service of the United States and in the line of duty, the claimant will be required to furnish such evidence, in accordance with the instructions hereinafter given, compliance with which must be full and definite; and if the disability results from a wound or other injury, the nature and location of the wound or injury, the time when, the place where, and the manner in which it was received, whether in battle or otherwise, should be shown by the affidavit of some one who was a commissioned officer and had personal knowledge of the facts.

If the person called upon to give evidence is still in the service as a commissioned officer, his certificate will be accepted in lieu of his affidavit.

If there is no record of the disability claimed, the applicant will be called on to furnish the testimony of the surgeon by whom he was treated, showing the location and nature of the wound or injury and the circumstances under which it was received. If the disability arises from disease, the testimony of the person who was surgeon or assistant surgeon of the regiment to which the applicant belonged, or the vessel on which he served, should, if possible, be furnished, showing the name or nature of the disease, the time when, the place where it was contracted, and the circumstances of exposure to the causes which, in his opinion, produced the same.

The surgeon should state whether, in his opinion, the habits of the applicant had any agency in the production of the disease.

REGULATIONS—Continued.

In any claim, whether made on account of injury or disease, if it be shown that the testimony of a surgeon, assistant surgeon, or other commissioned officer cannot be produced as evidence of the origin of the disability alleged, the testimony of other persons having personal knowledge of the facts will be considered.

In a claim on account of disability from disease, he must furnish the testimony of the physicians who have attended him since the date of discharge, explicitly setting forth the history of the disease and disability since its first appearance. It is especially important that the physician who first attended the applicant after his discharge should state the date at which his attendance commenced and his condition at that time. If it should not be possible for the applicant to show the condition of his health during the whole period since the date of his discharge by the testimony of physicians, the cause of his inability to do so should be stated by him under oath. The testimony of other persons on this point may then be presented. The statement of the witnesses in regard to the manner in which the applicant was affected should be full and definite, and they should state how they obtained a knowledge of the facts stated by them.

CLAIMS FOR INCREASE OF INVALID PENSIONS.

A pensioner who may deem himself entitled to an increase of pension should file a declaration setting forth the ground upon which he claims such increase.

See INCREASE (INVALID).

A declaration for increase of pension, except where a new or different disability than the one for which pension has been granted is alleged, may be taken before any officer duly authorized to administer oaths for general purposes, if it should not be convenient for the pensioner to appear before an officer of a court of record. The official character and signature of the person before whom the declaration may be taken must be certified under the seal of a court of record.

A declaration for increase of pension in which *new* disabilities are alleged as a basis for a claim must be executed before an officer of a court of record in the same manner as original declarations, and in accordance with the provisions of section 4714, Revised Statutes.

*See NEW DISABILITIES; and COURTS OF RECORD.***CLAIMS FOR RENEWAL OF PENSIONS.**

Applications for renewal of pension must be made to the Commissioner by a declaration executed as in original claims, setting forth that the cause for which pension was allowed still continues.

See RESTORATION AND RENEWAL.

REGULATIONS—Continued.

In cases of unclaimed pensions, evidence must be filed satisfactorily accounting for the failure to claim such pension; and, in invalid claims, medical evidence showing the continuance of the disability.

Blank forms of declaration will be furnished by this office at the request of the claimant, but will not be furnished to agents or attorneys.

CLAIMS OF WIDOWS AND CHILDREN.*The declaration.*

The blank form of declaration, with the accompanying notes, which is furnished by this office upon the request of a claimant, sufficiently indicates the facts which should be stated by the widow or guardian.

See WIDOWS; BLANK FORMS, &c.

Evidence.

The facts relating to the cause of the soldier's death on account of whom the pension is claimed, including his last illness and date and place of death, should be set forth fully and in detail, and should be proven by the physicians who attended him during his illness; but, when that is impossible, the testimony of other persons who are acquainted with the circumstances may be furnished.

Proof of marriage in widows' claims.

The marriage of the applicant to the person on account of whose service and death the claim is made should be shown—

- 1st. By a duly verified copy of a church or other public record; or
 - 2d. By the affidavit of the clergyman or magistrate who officiated; or
 - 3d. By the testimony of two or more eye witnesses to the ceremony;
- or

4th. By a duly verified copy of the church record of baptism of the children; or

5th. By the testimony of two or more witnesses who know that the parties lived together as husband and wife, and who will state how long, within their knowledge, such cohabitation continued.

Special provision, however, is made by section 4705 of the Revised Statutes in regard to the character of the evidence which shall be required in the claims of widows and children of colored and Indian soldiers and sailors.

Proof of the dates of birth of children.

The dates of birth of children should be proved—

- 1st. By a duly verified copy of the church record of baptism or other public record; or
- 2d. By the affidavit of the physician who attended the mother; or

REGULATIONS—Continued.

3d. By the testimony of persons who were present at the births, who should state how they are able to testify to the precise dates.

If any child of the person on whose account the claim is made died after the date at which the widow's pension will commence, the date of the death must be shown.

CLAIMS ON BEHALF OF MINOR CHILDREN.

In claims on behalf of minor children the guardian must furnish proof upon the following points:

1st. A copy of his letters of guardianship, bearing the seal of the court making the appointment, together with the certificate of the court that such appointment has not been revoked; which certificate should also state the amount of the guardian's bond.

2d. The cause and date of the father's death, the marriage of the parents, and the dates of birth of the children must be proved. When, however, satisfactory proof upon these points has been furnished in the claim of the widow, it will not again be required in the claim on behalf of the minors.

3d. If the mother of the children is dead, the date of her death must be proved. If she remarried, her remarriage must be proved in the same manner that her marriage to the father of the children is required to be proved. If the claim is made on account of the widow having abandoned the children, or on account of her unfitness to have custody of them, the abandonment or unfitness can be shown only by the certificate of the court having probate jurisdiction.

4th. If the mother of the children died before the father, it must be shown whether he again married.

5th. It must be shown whether the father left any other pensionable child than those for whose benefit the claim is made; and if so, why such child is not embraced in the application. A guardian is not entitled on account of a child which died prior to the date of the application.

See MINORS AND GUARDIANS.

CLAIMS OF DEPENDENT RELATIVES.*Dependent mothers.*

A mother must show her relationship, the date and cause of the son's death, and whether he left a widow or minor children surviving, and her dependence upon him for support at the time of his death.

In proof of dependence it must be shown that previous to the date of the said son's decease her husband had died, or that he had permanently abandoned her support, or that on account of disability from injury or disease he was unable to support her. If the husband is dead, the date of his death must be proved. If he abandoned the support of his family,

REGULATIONS—Continued.

the date of such abandonment and all the facts of the case showing whether he ever returned or ever afterward contributed to the support of the claimant must be fully set forth. If he was disabled, the nature and cause of the disability, and when and to what extent it rendered him unable to support the claimant, must be shown by the testimony of his physician. The extent of his disability during the period from the son's death to the present time should also be shown.

The value of the property of the claimant and her husband, the income which they derived therefrom, and the other means of support possessed by them while she was receiving the contributions of her said son, and from that time to the present, should be shown by the testimony of credible and disinterested witnesses, who must state how they know the facts. The value of property assessed for taxation may be shown by the testimony of the officer having possession of the records relating thereto. The true as compared with the assessed value should be stated.

It must be shown to what extent, for what period, and in what manner her said son contributed to her support, by the testimony of persons for whom the son labored, to whom he paid rent, of whom he purchased groceries, fuel, clothing, or other necessary articles for her use, or of those who otherwise had a knowledge of the contributions of the son, and who must state how they obtained such knowledge. Any letter from the son bearing upon the question of support should be filed. If the son, in any other manner than by actual contributions, acknowledged his obligation to support his mother, or was by law bound to such support, the facts should be shown.

See DEPENDENCE (MOTHERS').

Dependent fathers.

A father claiming pension on account of the death of his son, upon whom he was dependent for support, must prove—

1st. The cause and date of his son's death; that said son left no widow or minor child surviving him; the cause and extent of his disability during the period in which the son contributed to his support; and from that time to the present; the amount of his property and all other means of support possessed by him during that period; and the extent of his dependence upon his son for support. The facts of the case in these respects should be shown by such testimony as is required in the claim of a mother.

2d. The date of his marriage, the date of the death of the mother, and the date of birth of the son must be proved.

In case the mother applied for pension, reference should be made to her application, and the number of the same or of her certificate should be given. Evidence upon any point established in her claim will not again be required.

See DEPENDENCE (FATHERS').

REGULATIONS—Continued.*Minor brothers and sisters.*

The claim on behalf of minor brothers and sisters should be made by a guardian duly appointed, who must furnish the evidence of his or her authority under the seal of the court from which the authority was obtained. He must prove the cause and date of the death of the brother on whose account the claim is made, his celibacy, the dates of death of the mother and father, his relationship to the persons on whose behalf the claim is made, the dates of their births, and their dependence upon the brother for support. If the mother or father applied for pension, the number of his or her application or of his or her certificate should be given. Evidence upon any point established in the claim of the mother or father will not again be required.

In the administration of the pension laws no distinction is made between brothers and sisters of the half blood and those of the whole blood.

See BROTHERS AND SISTERS.

MAGISTRATES AND WITNESSES.

All evidence in a claim for pension (other than the declaration) may be verified before an officer duly authorized to administer oaths for general purposes; but no evidence verified before an officer who is engaged in the prosecution of the claim or who has a manifest interest therein, will be excepted until he shall have renounced in writing all such interest. Exceptions to this rule, in extreme and necessitous cases, where a notary public or justice of the peace other than the attorney of record cannot be had, are held to be within the discretion of the Commissioner, but those exceptions are rare.

See EVIDENCE; and ATTORNEYS.

Any officer before whom testimony in a claim for pension may be taken must therefore set forth in his certificate that he has no interest in the prosecution of such claim.

The official character and signature of the magistrate who may administer the oath must be certified by the proper officer of a court of record under the seal of such court.

When the commission of a notary public or a certified copy of his appointment, with his official seal and signature attached, and the certificate of the clerk of a court or other proper officer to the genuineness of the signature, is filed in this office, his own certificate, under his official seal, will be recognized thereafter during his continuance in office; but in the absence of such commission or certified copy of his appointment, an affidavit taken before such officer will not be received in any case unless it be accompanied by a certificate of the proper officer showing his authority and the genuineness of his signature. When a

REGULATIONS—Continued.

general certificate as to the authority and signature of a notary has been filed in this office, upon all papers verified before him thereafter reference should be made to such general certificate.

When a person authorized to act as a deputy of an officer of a court of record administers an oath to a witness, he must sign his own name to the certificate of the fact, and not that of the person for whom he is acting.

It is desirable that the facts required to be proved in the prosecution of a claim for pension should, if possible, be shown by the testimony of other persons than near relatives of the claimant.

Every fact required to be proved should be shown by the best evidence obtainable. Every witness should state whether he has any interest, direct or indirect, in the prosecution of the claim in which he may be called to testify, and give his post-office address.

See EVIDENCE.

Witnesses should not merely confirm the statements of other parties, but they should give a detailed statement of the facts known to them in regard to the matter concerning which they may testify, and they should state how they obtained a knowledge of such facts. The officer who may take the deposition must certify as to his knowledge of the credibility of the witnesses, and must state how such knowledge was obtained. If they sign by mark, he must certify that the contents of their depositions were fully made known to them before he administered the oath.

It is desirable that affidavits should be free from interlineations and erasures. When an alteration is made in an affidavit, or an addition is made thereto, it must appear by the certificate of the officer who administered the oath that such alteration or addition was made with the knowledge and sworn consent of the affiant.

In all affidavits from surgeons or physicians, it is desirable that that portion detailing the nature of the disability, dates of treatment, and death, symptoms and opinions as to connection between diseases, or injury and disease, should be in the handwriting of the party by whom it is signed. The testimony of any person as an expert should be drawn up by some one professionally competent to make such a statement.

The official certificates of judicial officers using a seal, or of commissioned officers of the Army and Navy in actual service, will be accepted without affidavit; but all other witnesses must testify under oath.

*See EVIDENCE, MEDICAL.***REMARKS AS TO ATTORNEYS.**

The Pension Office is constantly in receipt of letters from claimants, or others writing for them, asking for information as to the reputation and standing of attorneys and for advice as to the propriety of employing this attorney or that firm to assist in the prosecution of a given

REGULATIONS—Continued.

claim. The office is often requested to recommend some good reliable attorney for such employment.

The impropriety of such requests must be apparent to all. A compliance with them by the Commissioner of Pensions would be still more improper. The presumption of the office is that every attorney is reliable until the contrary is shown. Claimants must exercise their own discretion in those matters. The Pension Office invariably declines to make suggestions or to furnish advice on that subject. To do differently would be to inaugurate a system whereby unjust discriminations, based upon personal favoritism or personal prejudice, would be unavoidable. Claimants and others will, therefore, save the office and themselves much trouble by refraining from correspondence wherein such information is requested. In the future communications upon this subject will not be replied to.

REIMBURSEMENT.**Section 4718, Revised Statutes.**

If any pensioner has died or shall hereafter die, or if any person entitled to a pension, having an application therefor pending, has died or shall hereafter die, his widow, or if there is no widow, the child or children of such person under the age of sixteen years shall be entitled to receive the accrued pension to the date of the death of such person. Such accrued pension shall not be considered as a part of the assets of the estate of deceased, nor liable to be applied to the payment of the debts of said estate in any case whatever, but shall inure to the sole and exclusive benefit of the widow or children; *and if no widow or child survive, no payment whatsoever of the accrued pension shall be made or allowed, except so much as may be necessary to reimburse the person who bore the expenses of the last sickness and burial of the decedent, in cases where he did not leave sufficient assets to meet such expenses.*

Sec. 25, 3 Mar., 1873; see sec. 10, 4 July, 1864; see sec. 6, 6 June, 1866; see sec. 4, 25 July, 1868; see sec. 9, 27 July, 1868; see sec. 2, 2 Mar., 1829; see secs. 1, 2, 3, 19 June, 1840. Also see note to each of the last two-named acts in Mayo and Moulton.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. For expenses of last sickness and burial of a deceased widow pensioner allowable under section 4718, Revised Statutes.

Kilpatrick, Sarah. Ctf. No. 6,591. Opinion of Attorney-General. Aug. 10, 1876. Vol. 4, p. 370.

2. The claimant's statements in a claim for reimbursement should be corroborated by the affidavits of two credible witnesses.

Wells, Elizabeth. Ctf. No. 6,830. Chandler, Z., Secretary. Jan. 13, 1877. Vol. 5, p. 7.

See CLAIMANT'S STATEMENTS.

3. A town not entitled to, for expenses of last sickness and burial of a pension claimant who dies during pendency of his claim.

Dore, Daniel. App. No. 136,063. Schurz, C., Secretary. July 17, 1878. Vol. 6, pp. 30-32.

REIMBURSEMENT—Continued.

4. Will be allowed under section 4718, Revised Statutes, in case of a deceased insane pensioner, although she had failed, for a period of more than three years prior to her death, to draw her pension.

Davis, Mary. Ctf. No. 160,201. *Kirkwood, S. J., Secretary.* Mar. 14, 1881. Vol. 8, p. 167.

5. An invalid pensioner died prior to the passage of the acts of January 25 and March 3, 1879, leaving a widow, but no minor child. The widow filed a claim for pension in her own right and also for the arrears due under the provisions of the above-named acts on her deceased husband's certificate. Her pension claim was rejected and the claim for arrears allowed. It appeared, however, that she had died before the allowance of the arrears claim: *Held*, that the claim for reimbursement of the expenses of the last sickness and burial of both the soldier and his widow should be paid out of said arrears fund.

Smith, John. Ctf. No. 123,708. *Kirkwood, S. J., Secretary.* July 15, 1881. Vol. 8, p. 350.

6. A soldier enlisted April 20, 1862, was discharged May 25, 1865, and died October 25, 1871, leaving neither widow nor child or children under sixteen years of age surviving. He had a claim for pension, filed June 17, 1870, pending at the date of his death, which was allowed in November, 1871, the pension to commence from August 21, 1871, the date of the completion of the claim, under section 4709, which was the law at that time. The accrued pension from August 21, 1871, to October 25, 1871, was paid to his administrator, under the provisions of section 9, act of July 27, 1868. After the passage of the acts of January 25 and March 3, 1879, the administrator filed a claim for arrears of pension from the date of the discharge of the soldier to the date from which the pension was paid. This claim was rejected, and an appeal was entered.

On the appeal, the honorable Secretary, in sustaining the rejection, *Held*, that all invalid pension laws in force at the time of the soldier's enlistment were subject to the provisions of the second section of the act of May 15, 1820, which directed "that the right any person now has, or may hereafter acquire, to receive a pension in virtue of any law of the United States, shall be considered to commence at the time of completing his testimony." It was also decided that the arrears of pension, in this case, could be used to pay any claim for reimbursement that might be allowed under the provisions of section 4718, Revised Statutes.

Walsh, James. Ctf. No. 114,533. *Kirkwood, S. J., Secretary.* Jan. 3, 1882. Vol. 9, p. 56 and p. 62.

7. Hereafter, when a claim for reimbursement, under the provision of section 4718, Revised Statutes, shall be allowed, a certificate for the amount found due will be issued "over the signatures of the Commissioner of Pensions and the Secretary of the Interior, with the seal of the Department attached."

Kirkwood's S. J., letter of approval of Commissioner's proposition, Jan. 23, 1882. Vol. 9, p. 72.

REIMBURSEMENT—Continued.**OPINION OF THE ATTORNEY-GENERAL.**

8.

DEPARTMENT OF JUSTICE,**WASHINGTON, 3d August, 1882.**

SIR: The question presented by the letter of the Second Comptroller, referred to in and accompanying your communication of the 8th July ultimo, requesting my opinion, is, whether the accounts presented by persons who have borne the expenses of "the last sickness and burial" of deceased pensioners, under section 4718 of the Revised Statutes, must be audited and adjusted in the Treasury by the accounting officers after an examination of the original vouchers and papers, or whether the Commissioner of Pensions may determine finally the amount properly due for such expenses, and, by withholding the original vouchers from the accounting officers, compel them to audit and allow such claims upon the mere certificate of that officer.

It is conceded by the Comptroller, in his letter, that the Commissioner of Pensions is authorized to decide who are entitled to be pensioners and the amounts to be paid to them, respectively, as such, and that his decision is, to that extent, conclusive as to the accounting officers; but he insists that claimants for reimbursement of expenses of the last sickness and burial of pensioners are not in any sense on the footing of pensioners, and that the ascertainment and allowance of the different items of such expenses belong exclusively to the accounting officers of the Treasury.

Section 4718 of the Revised Statutes provides that when a pensioner or a person entitled to a pension, and "having an application therefor pending" shall die, not leaving a widow or child him surviving, "no payment whatsoever of the accrued pension shall be made or allowed, except so much as may be necessary to reimburse the person who bore the expenses of the last sickness and burial of the decedent, in cases where he did not leave sufficient assets to meet such expenses."

It may be assumed as established that the decision of the Commissioner of Pensions placing a person on the pension roll and fixing the amount of his pension is conclusive, and, consequently, that in settling the accounts of pension agents the accounting officers have no authority to go behind the pensioner's certificate.

It must be taken as equally clear that, as the pension law determines the amounts to be paid the various pensioners, the action of the Commissioner of Pensions in allowing or directing payment of a pension cannot be said ever to involve an accounting, in any proper sense of that term.

An examination of the various provisions under the title "Pensions" in the Revised Statutes will show that, with the exception of said section 4718, there is not one that calls for the auditing and settling of accounts, and that there is an entire absence of any direct or express

REIMBURSEMENT—Continued.

intention that the Commissioner of Pensions should have the power to audit accounts.

So far from it, indeed, the law withholds from him the power to administer oaths, which is expressly conferred on the Auditors of the Treasury, that they may take testimony "in any case in which they may deem it necessary for the due examination of the accounts with which they shall be charged." (§ 297, R. S.)

Congress has provided an admirable system for the adjustments of public accounts (chapters 3 and 4, R. S.), and has declared that "all claims and demands *whatever* by the United States or against them, and all accounts *whatever* in which the United States are concerned, either as debtors or as creditors, shall be settled and adjusted in the Department of the Treasury." (§ 236, R. S.) This system has been in operation from the foundation of the Government, and there can be no doubt as to the general intention of Congress that all unliquidated demands against the Government shall be adjusted by the accounting officers forming the system.

Whether we regard sections 4718 and 236 as holding the same relation to one another as when the former was section 25 of the act of 3d March, 1873, and the latter section 3 of the act of 3d March, 1817, or since the enactment of the Revised Statutes as parts of one and the same statute, I perceive no ground whatever for holding that section 4718 was intended to restrict or qualify the declaration contained in section 236 that all demands and accounts *whatever* against the Government shall be audited and adjusted in the Treasury.

It is the first duty of the expounder of several cognate statutes, or of several provisions of the same statute, to give them all a harmonious interpretation, and nothing short of some irreconcilable repugnancy can justify him in imputing to the legislature confused or inconsistent intentions.

From the time of the passage of the act of 1873 until a very recent date, according to the Comptroller's letter, these two provisions have been treated as in perfect harmony, and accounts under section 4718 have been audited and adjusted by the accounting officers after an examination of the original vouchers and papers, in the accustomed way, and it is only by a strained construction of this section that any collision between it and section 236 is now produced.

It follows, therefore, that the Commissioner of Pensions has no authority to audit and adjust accounts under said section 4718, R. S.

It is proper to add that my opinion of the 28th April, 1882, which, the Comptroller says has been invoked as an authority for the new interpretation of section 4718, does not conflict with this opinion. In the former it was held that Congress intended that a decision of the Commissioner of Pensions as to the amount demandable by a pensioner should be conclusive, while this opinion holds that Congress had no

REIMBURSEMENT—Continued.

intention to invest that officer with the power to audit and adjust accounts under section 4718.

The language of each opinion must be taken in connection with its subject-matter.

Very respectfully, your obedient servant,

BENJAMIN HARRIS BREWSTER,

Attorney-General.

The SECRETARY OF THE TREASURY.

See vol. 9, p. 387. (See also JURISDICTION.)

RULING OF THE COMMISSIONER OF PENSIONS.

RULING No. 60. May 25, 1868.

Hereafter all claims for reimbursement to the person who bore the expenses of the last sickness and burial of a deceased pensioner or claimant will be adjusted by the Commissioner of Pensions, and payment out of accrued pension will only be made upon his order.

The last sickness of a pensioner, as contemplated by section 4718, Revised Statutes, is the immediate attack which ends in death. If the attack is not acute, it shall be regarded as commencing at the time the pensioner became so ill as to require the regular and daily attendance of another person constantly until death.

If the death is from some acute attack, the beginning of the attack shall be taken as the commencement of the last sickness.

The claimant for such reimbursement must submit a detailed account, showing the several sums of money which he claims to have expended, stating for what each item was expended, and to whom paid. The bill must be verified by the oath of the claimant, to the effect that the several items were necessary, and were actually expended; the character and duration of the sickness for which the expenses were paid; and, if there was an attending physician, his certificate that the several items were reasonable and necessary, should accompany the account.

The claimant must also state, under oath, that the deceased did not leave sufficient assets to meet such expenses, and that no part of the sum claimed has been refunded.

The expenses of the last sickness and burial of a pensioner, or of a person entitled to pension, must all be presented in the name of one person.

Further proofs will be required, according to the circumstances of the respective claims.

ORDERS OF THE COMMISSIONER OF PENSIONS.

ORDER No. 61. September 12, 1881.

In an incomplete claim of a deceased claimant who leaves neither widow nor minor child surviving, the claim will remain in the pending

REIMBURSEMENT—Continued.

files until called up by a person having a right to complete the same under section 4718, Revised Statutes. Thereupon said person will be notified of what is necessary to complete the pending claim, and, at the same time, of the conditions upon which reimbursement, under section 4718, Revised Statutes, may be obtained. If the party entitled to apply under said section shall make application and complete the pending claim, it will be briefed for certificate and referred to the chief of certificate and account division for action in the matter of reimbursement. The certificate will not issue until the pending claim for reimbursement shall have been completed.

ORDER No. 68. November 16, 1881.

'Hereafter all claims for money due on pension certificates properly issued by this office will be made to the pension agent on whose roll the pensioner's name is then borne.*

Claims for reimbursement by the person who bore the expenses of last sickness and burial of decedent, when he left assets insufficient to defray those expenses, will be adjudicated and paid by the pension agent (in the same manner as he now pays widows or children in claims of deceased pensioners) upon the receipt of proper vouchers, with receipted bills attached, showing that the expenses charged for have been actually incurred.

In considering what shall be construed as expenses of last sickness and burial, the agent will be governed by the following instructions:

The last sickness of a pensioner, as contemplated by section 4718, Revised Statutes, is the immediate attack which ends in death. If the attack is not acute it shall be regarded as commencing at the time the pensioner became so ill as to require the regular and daily attendance of another person constantly until death.

If the death is from some acute attack, the beginning of the attack shall be taken as the commencement of the last sickness.

ORDER No. 81. May 13, 1882.

Hereafter all claims for pension arising under section 4718, Revised Statutes, will be settled in this office, to determine the *amount* of pension due and *to whom* it shall be paid in cases of widows and children of deceased pensioners as well as in cases of reimbursement to those who bore the expenses of last sickness and burial of decedent.

All orders in conflict with this are hereby rescinded, in conformity to the opinion of the Attorney-General of the 28th ultimo.

Obsolete.

See RULING No. 30, UNDER HEAD OF ACCRUED PENSION

*These claims to be audited by the accounting officers of the Treasury Department. See opinion of the Attorney-General, *par.* 8, this Title.

REIMBURSEMENT—Continued.

ORDER No. 85. *July 13, 1882.*

When an applicant for pension dies, the pending claim may be completed by any person having title to the accrued pension under section 4718, Revised Statutes.

If such person be the widow or minor child of the applicant the title to the accrued pension must be established in the adjudicating division, and the evidence of relationship, &c., must be entered upon the brief with the name and address of the person to whom the accrued pension is payable.

If there be neither widow nor minor child surviving, and title is alleged to reimburse the person who defrayed the expenses of last sickness and burial, the pending claim may be completed in adjudicating division as though claimant were living, and sent to certificate and account division, in which proof of title to reimbursement will be shown before the certificate is issued. A case will not be considered as pending, *within the meaning of this order*, that has left the adjudicating division.

See OPINION OF ATTORNEY-GENERAL, *par.* 8 THIS TITLE.

REJECTED CLAIMS.

ORDER OF THE COMMISSIONER OF PENSIONS.

ORDER No. 65. *October 3, 1881.*

No case should be rejected until every available source of information has been examined, unless the rejection be clearly upon legal points.

No claim hereafter rejected will be reopened except upon new and material evidence going to the cause of rejection.

CIRCULAR DATED MAY 27, 1885.

"Great care must be exercised in the rejection of applications for pension. Wrong action here cannot well be remedied. Chiefs of adjudicating divisions are charged with the observance of this suggestion. [Each chief of division will report daily to the Commissioner the number of cases rejected by him.]"

Last clause rendered obsolete by change in office practice.

REMARRIAGE OF DEPENDENT MOTHERS.

Section 4708, Revised Statutes.

The remarriage of any widow, dependent mother, or dependent sister, entitled to pension, shall not bar her right to such pension to the date of her remarriage, whether an application therefor was filed before or after such marriage; but on the remarriage of any widow, dependent mother, or dependent sister, having a pension, such pension shall cease.

Sec. 14, 3 Mar., 1873; *secs.* 2, 3, 14 July, 1862; *sec.* 7, 4 July, 1864; *sec.* 6, 25 July, 1866; *sec.* 10, 27 July, 1868; *sec.* 2, act 3 Mar., 1879; act 7 Aug., 1882.

REMARRIAGE OF DEPENDENT MOTHERS—Continued.**OPINION OF THE ATTORNEY-GENERAL.**

"When a mother in the receipt of a pension remarries it may safely be assumed that her new husband can support her and that she no longer needs the pension."

"The mother of a deceased soldier is entitled to a pension whether she be married or be a widow, provided she was dependent upon him for support in whole or in part, and that whether she was so dependent or not, and how far, is a question of fact to be decided in each case upon the evidence."

Sept. 13, 1862. Vol. 2, p. 162.

DECISION OF THE SECRETARY OF THE INTERIOR.

The claimant was pensioned in 1874 as the dependent mother of John T. Williams, the soldier, who died June 11, 1873. The father of the soldier had died previously, and at the time of the son's death the claimant was a widow.

On special investigation, after the allowance of the claim, testimony was "obtained showing that some time in the year 1864, the pensioner and one Lawrence H. Kelley commenced to live and cohabit, in this city, as husband and wife, and were so living at the date of the investigation, in December, 1878; that they were known and regarded in the community as husband and wife, and had represented themselves to be such."

The claimant and Kelley denied, in their testimony, that they had ever married, "or that their conduct and habit had been such as would warrant the presumption of marriage."

The result of the investigation was that the claimant's name "was dropped from the rolls in January, 1879, upon the ground that she had remarried, and had thereby forfeited her pension, as provided in section 4708, Revised Statutes." On appeal, it was contended that the evidence was not sufficient to prove marriage between claimant and Kelley.

The Hon. Secretary, in rendering his decision, holds the following language, viz: "While, it may be stated, the Department has no difficulty in reaching the conclusion that the evidence establishes the existence of all the requisites of an informal marriage between the parties, recent legislation by Congress, bearing upon the case, would seem to render it unnecessary to enter into any discussion of this question. The act of August 7, 1882, to amend section 4702 of the Revised Statutes, and for other purposes (ch. 438, p. 345, Pamphlet of Laws), provides that the open and notorious adulterous cohabitation of a widow who is a pensioner shall terminate her pension from the commencement of such cohabitation.

"If, as claimed by the appellant, the relation existing between the pensioner and Kelley was not a remarriage of the former, by which she

REMARRIAGE OF DEPENDENT MOTHERS—Continued.

forfeited her right to pension, as provided in section 4708, Revised Statutes, her conduct was such as is contemplated in the recent act above quoted, and the restoration of the pension would be in violation of the spirit and intent of that act."

Williams, Catharine A. Ctf. No. 164,531. Teller, H. M., Secretary. Nov. 15, 1882. Vol. 2, p. 442.

REMARRIAGE OF WIDOWS.

See SECTION 4708, REVISED STATUTES, UNDER REMARRIAGE OF DEPENDENT MOTHERS, AND ACT OF AUG. 7, 1882, UNDER ADULTEROUS COHABITATION.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. Remarriage of widow, if claim was pending, does not deprive her of pension to the date of such remarriage.

Widow of J. B. Claiss. Ctf. No. 159,752. B. R. Cowen, Acting Secretary. Nov. 15, 1872. Vol. 1, p. 216.

[NOTE.—The above decision reversed the decision of Secretary Cox, in the case of Catharine Jones, certificate No. 95,428, in which he held that "where a soldier leaves children under sixteen years of age they are entitled to receive the pension from the date of his death to the absolute exclusion of his widow, even if she remarried after the issue of the certificate to her, and before the payment to her of the pension."]

2. Remarriage of widow forfeits pension where, if allowed, it would commence after the date of such remarriage.

Simons, Minerva J. App. No. 212,002. Delano, C., Secretary. July 10, 1874. Vol. 3, p. 276.
Gill, Phoebe. App. No. 218,135. Delano, C., Secretary. Feb. 4, 1875. Vol. 3, pp. 270, 456.

3. The remarriage of a widow to a man who has an undivorced wife living does not destroy her right to a pension.

Moore, Mary L. App. No. 136,417. Chandler, Z., Secretary. Nov. 6, 1875. Vol. 4, p. 144.

4. Cohabitation and public acknowledgment as husband and wife constitute legal marriage under the laws of Pennsylvania.

Griffin, Martha J. Chandler, Z., Secretary. Nov. 19, 1875. Vol. 4, p. 149.

5. The living and cohabiting of a widow pensioner with a man, and being known and recognized as his wife, constitute such a marriage as will deprive her of her pension.

Banks, Mary. Ctf. No. 752. Schurz, C., Secretary. Jan. 31, 1878. Vol. 5, p. 335.

6. Where pensioner remarried and subsequently a decree was made that the "marriage is dissolved," and *not*, as alleged, "to be null and void *ab initio*:" *Held*, that the proof was not sufficient to declare the marriage null and void; and the action of the office in refusing to restore claimant's name to roll was proper.

Dorr, Lydia, widow of Dorr, George S. Ctf. No. 143,814. Schurz, C., Secretary. Feb. 26, 1878. Vol. 5, p. 353.

7. Where claim of dependent mother was rejected upon the ground that the soldier had a widow surviving: *Held*, that in determining the question of marriage the *lex loci* need not be considered, for the common law would govern, and, in this case, there appears to be no valid mar-

REMARRIAGE OF WIDOWS—Continued.

riage under the common law. The claim of the mother should be considered without reference to any claim of the alleged widow. Where the question of remarriage of widow of a soldier is involved, cohabitation, as a wife, with some man, estops her from obtaining a pension.

Wilber, Amanda, dependent mother of Winn, Joseph A. App. No. 205,756. Schurz, C., Secretary. June 15, 1878. Vol. 5, p. 489.

8. Even though no marriage ceremony is shown to have been performed, the mutual recognition of the parties as husband and wife, their reputation as such, and the admissions of the wife, estops her from claiming pension as soldier's widow.

Kingsbury, Harriet N. Ctf. No. 671 (Mexican war). Schurz, C. Secretary. May 1, 1880. Vol. 7, p. 314. (Vide Reynolds, Caroline, widow of Reynolds, Hugh A. Ctf. No. 38,666. Schurz, C., Secretary. May 2, 1879. Vol. 6, p. 323. Clary, Augusta. Ctf. No. 147,253. Schurz, C., Secretary. May 11, 1880. Vol. 7, p. 341. Smith, Mary S. Ctf. No. 60,056. Kirkwood, S. J., Secretary. July 5, 1881. Vol. 8, p. 332.)

9. Where claim is filed by guardian in behalf of minor of soldier, and it appears that prior to the marriage to the soldier the mother of minor was previously married, and no decree of divorce appearing or proof of death: *Held*, that proof of death of first husband prior to second marriage is essential to the favorable consideration of the widow's or minor's claim.

Buroh, Joseph N. (guardian of the minors of). App. No. 226,176. Schurz, C., Secretary. May 5, 1880. Vol. 7, p. 325.

10. There being no record or other direct evidence of remarriage, yet the admissions of the widow of soldier that she lived with second party as his wife for a period of twenty years, being known by his name and recognized as his wife by all who knew her, including her own children by the soldier: *Held*, that she is estopped from drawing pension as widow of soldier.

Banka, Charles A. (widow of). Ctf. No. 752 (Mexican war). Schurz, C., Secretary. June 1, 1880. Vol. 7, p. 374.

11. Where widow of soldier, after allowance of pension, left her former residence, subsequently returned and publicly announced that she was married, lived with a man at a hotel, as husband and wife, for weeks, was regarded as his wife in the community in which they lived, and in a pending suit in a court being sworn in the name of her second husband and testifying in his behalf as his wife: *Held*, that her name should be dropped from the pension-roll.

Eells, Catharine, widow of Eells, Franklin B. Ctf. No. 174,446. Schurz, C., Secretary. June 4, 1880. Vol. 7, p. 377. (Vide Wilber, Amanda. App. No. 205,757. Vol. 5, p. 489. McMahon, Margaret, widow of McMahon, Patrick. Ctf. No. 6,445. Vol. 5, p. 469. Nixon, Margaret. Ctf. No. 9,715. Vol. 8, p. 41.)

12. Where a widow pensioner lives and cohabits with a man as his wife, and they acknowledge themselves to be husband and wife, and are so known in the community in which they live, she is estopped from further drawing pension.

Rosner, Louise. Ctf. No. 156,857. Schurz, C., Secretary. Dec. 18, 1880. Vol. 8, p. 80. (Vide Smith, Maria. Ctf. No. 139,866. Schurz, C., Secretary. Jan. 29, 1878. Vol. 5, p. 329.)

REMARRIAGE OF WIDOWS—Continued.

13. If a widow who is a pensioner has lived with a man as his wife, calling him husband, and was by him called wife, and it is apparent that the relation was assumed with a view to retain her pension, the pension should be held to be estopped by her conduct and by her representations from claiming or receiving pension as the widow of the soldier.

Anslinger, Constantia V. Ctf. No. 29,188. Bell, A., Acting Secretary. June 6, 1882. Vol. 8 p. 282. (Vide O'Neill, Margaret. Ctf. No. 110,308. Kirkwood, S. J., Secretary. June 16, 1881. Vol. 8, p. 306.)

14. The remarriage of a widow prior to the approval of a special act passed for her benefit should be reported to Congress, and payment of her pension should be withheld a reasonable time for Congressional action.

See SPECIAL ACTS, par. 10.

15. Evidence was presented to show that Alexander Stevenson, formerly a gunner in the U. S. Navy, married the claimant in September 1832. "He abandoned her in 1838. In 1840 a marriage ceremony was performed between him and Mary T. Currier, with whom he lived until his death in 1847, and by whom he had two children.

"The claimant in this case, Mary Stevenson, in August, 1842, about four years after Stevenson had abandoned her, commenced to live and cohabit with one David Buckley as his wife, and continued to live and cohabit with him until 1865."

The claim for widow's pension was rejected on the ground that the claimant was not the widow of Stevenson.

On appeal it was held that if any valid marriage ever existed between her and Stevenson, it "was dissolved only by his death." But it was further held that, "In determining the question of the right of the claimant to pension under existing law, it is not necessary to ascertain whether she is the widow of Alexander Stevenson or not. If she is his widow, as she claims to be, the fact that at the date of his death she was living in open and notorious adulterous cohabitation with David Buckley excludes her from the benefits of the pension law, under the provisions of the second section of the 'Act to amend section 4702, title 57, of the Revised Statutes, and for other purposes,' approved August 7, 1882. That section provides that the open and notorious adulterous cohabitation of a widow who is a pensioner shall operate to terminate her pension from the commencement of such cohabitation.

"It is not necessary to determine whether the applicant was lawfully married to Stevenson; nor whether her relation to Buckley after the death of Stevenson constituted a marriage. The fact is that, whether she, in either case, was or was not married, she is not entitled to pension.

Stevenson, Mary. No. 1,336 (Navy). Teller, H. M., Secretary. Mar. 27, 1883. Vol. 10, p. 210.

See MARRIAGE AND ADULTEROUS COHABITATION, ACT OF AUGUST 7, 1882.

REMARRIAGE OF WIDOWS—Continued.**RULING OF THE COMMISSIONER OF PENSIONS.****RULING No. 116. June 9, 1885.**

Claimant was pensioned as the widow of Fletcher G. Owens, captain Company G, One hundred and twenty-third Indiana Volunteers, commencing August 8, 1864, the date of his death. Her pension was terminated September 7, 1866, because of her marriage, on that day, to one Bruce A. Hatton, a former soldier of Company B, Fortieth Illinois Volunteers.

As the guardian of Captain Owen's minor children she was allowed pension for the three minors, from the date of her marriage to Hatton, to May 16, 1872, when the youngest child became sixteen years of age.

Hatton had on file in the Pension Office a claim, which was pending and incomplete at the date of his death, November 12, 1881.

The claimant in an application, executed December 21, 1883, alleges that while endeavoring to complete Hatton's claim, she discovered that her marriage to him was illegal by reason of the fact that he had a wife living at the time from whom he was not divorced until August 24, 1867, and that she therefore claimed restoration of the pension previously allowed her as the widow of Captain Owens.

Upon this statement of facts the Commissioner held "that the rule laid down by Bishop (I Bishop on Marriage and Divorce) holds good in Indiana, where the marriage to Hatton took place, and where she lived with him until his death, in 1881. (*Vide Teter vs. Teter*, 88 Ind., p. 494.) Hence it follows that while the claimant may be regarded as having lived in what may be termed a state of crimeless adultery from the date of her marriage to Hatton, to the date he was divorced from his former wife, she became his lawful wife from the latter date, viz, August 24, 1867.

She has been paid all pension due her from the date and on account of Captain Owens's death to the date of Hatton's divorce from his former wife and the commencement of her legal relations with him. It is rather an anomaly that, while living in adultery she may have been entitled to pension, yet her right would cease from the moment her relations with Hatton became pure, but it is nevertheless true. The claimant has rights as the widow of Hatton, and can complete his pending invalid claim, subject to the provisions of section 4715, Revised Statutes, which is as follows:

SEC. 4715. Nothing in this Title shall be so construed as to allow more than one pension at the same time to the same person or to persons entitled jointly; but any pensioner who shall so elect may surrender his certificate, and receive, in lieu thereof, a certificate for any other pension to which he would have been entitled had not the surrendered certificate been issued. But all payments previously made for any period covered by the new certificate shall be deducted from the amount allowed by such certificate.

Sec. 2, 3 Mar., 1873; sec. 3, 4, 10, 14 July, 1862; sec. 13, 6 June, 1866; sec. 2, 25 July, 1866.

REMARriage OF WIDOWS—Continued.

The rule laid down by Bishop, before referred to, is as follows, and will govern in all similar cases :

"If by the law of the place where parties dwell a mere present mutual consent constitutes marriage, then, if they are living together in a connection which both desire should be matrimonial, but an impediment renders the marriage void, valid marriage will instantly arise on the removal of the impediment, while the mutual wish for marriage continues. It is immaterial to this result whether the impediment was known to the parties or not; nor is this a mere rule of evidence; the law makes them husband and wife."

Owens, F. G., widow of. Ctf. No. 59,596. Hatton, Bruce A. App. No. 325,011. See, also, Commissioner's ruling in case of Rinaud, Clement, 243, 288, dated Aug. 7, 1885. (Commissioner's order book, p. 76,) and ruling same date in case of Marsh, Wm. Ctf. No. 234,018. (Order book, p. 83.)

RENEWAL OF PENSIONS.

See RESTORATION AND RENEWAL.

REQUIREMENTS AS TO PROOF.**DECISIONS OF THE SECRETARY OF THE INTERIOR.**

1. Requirements as to proof should all be made at one time and not consecutively.

Cogger, Joseph. App. No. 211,269. Delano, C., Secretary. May 18, 1874. Vol. 3, p. 209.

2. Claimant's refusal to comply with requirement of Pension Office to be examined by an examining surgeon sufficient ground for the rejection of his claim.

Casey, William. File No. 8,951. Chandler, Z., Secretary. Apr. 18, 1876. Vol. 4, p. 277.

See EVIDENCE.

RE-RATING.**DECISIONS OF THE SECRETARY OF THE INTERIOR.**

1. The rule of the Department prohibits readjudication of a question once determined except on the production of new and important evidence. Where the question of disability is involved, it having been once determined upon certificate of medical examination prior to the original adjudication, important testimony within the rule cannot be furnished in such case, and the reopening of cases settled for years cannot be granted on the mere averment of an error having been committed.

Foster, William B. Ctf. No. 103,029. Schurz, C., Secretary. Jan. 2, 1878. Vol. 5, p. 301.

2. Is authorized where the proof shows that the pension allowed for a portion of the period since date of discharge was not proportionate to the degree of disability then existing.

Hatch, Henry H. Ctf. No. 142,477. Schurz, C., Secretary. Dec. 3, 1879. Vol. 7, p. 92.

RE-RATING—Continued.

3. The claimant has the right to furnish further evidence as to the extent of his disability for the period to which the appeal relates.

Frock, John E. Ctf. No. 2,627. Schurz, C., Secretary. Dec. 3, 1879. Vol. 7, p. 91. (*Vide* Hazard, Charles J. Ctf. No. 123,449. Schurz, C., Secretary. Jan. 9, 1880. Vol. 7, p. 158.)

4. Declined by the office where the pensioner was allowed as high a rate of pension as the evidence on file at the time of its adjudication would justify: *Held*, that, though the disability was permanent and not specific, as prescribed by law, the Department was precluded, under section 4698½, from revising the action of the office.

Fairchild, Benjamin. Ctf. No. 59,943. Schurz, C., Secretary. Jan. 16, 1880. Vol. 7, p. 170.

5. Instructions in regard to how far and under what circumstances erroneous ratings for non-specific disabilities, whether made by the present or a former administration of the office, may be corrected. In the view of the Department the restriction contained in section 4698½, Revised Statutes, would preclude the office from disturbing the allowance made in a case wherein the disability has varied in degree, and the rate of pension having been allowed in accordance with the evidence on file at the date of adjudication.

Where the disability is a loss of a part of hand or foot or other portion of the body, and where the evidence is positive that the disability has been the same from the date of discharge, and the rate of pension has not been proportionate to the degree of disability, and not as great as allowed by the office in other cases in all respects similar, the law should not be construed to prevent the allowance of the rate which was usually allowed in cases of the same disability.

Hultz, William. Ctf. No. 68,652. Schurz, C., Secretary. Apr. 2, 1880. Vol. 7, p. 272.

See, also, SPECIFIC AND NON-SPECIFIC DISABILITIES, par. 4.

6. Where pension was allowed for the rate shown as proper for wound alone, the factor of disease not being considered: *Held*, that both the wound and disease should be considered and the claim readjusted to embrace both disabilities.

McDonough, Henry. Ctf. No. 163,211. Schurz, C., Secretary. Apr. 8, 1880. Vol. 7, p. 281.

7. Where evidence on file showed that disability had been progressive and the medical examination did not show any injustice to have been done: *Held*, that the case should not be reopened.

Schendel, Edward. Ctf. No. 22,222. Schurz, C., Secretary. May 11, 1880. Vol. 7, p. 342.

8. Invalid pension was allowed to a private soldier September 27, 1866, at three-fourths of total, or \$6 per month from the date of his discharge, on account of a wound of his left leg. He filed a claim for increase February 27, 1873, and it was allowed at the rate of \$18 per month from March 21, 1873, the date of the certificate of his examination. He subsequently applied for the readjudication of his claim to allow him a higher rate for the period over which he was paid \$6.

On appeal from the refusal of this office to readjudicate the claim it was held that there was no evidence "that during any portion of the

RE-RATING—Continued.

period the pensioner was paid \$6 per month his disability existed in a degree to entitle him to a higher rate."

"A proviso to the 4th section of the act of March 3, 1873 (now section 4698½ of the Revised Statutes), in force at the date the increase of pension was allowed, prohibited the commencement of increase of pension from a date prior to the date of the examining surgeon's certificate, made under a pending claim for increase, establishing the right to the higher rate, except in cases of 'permanent specific disabilities.'

"A 'permanent specific disability' is one which is specifically described in the law; such as the loss of a hand or a foot."

The disability in the present case "is not a permanent specific disability."

Harris, James. Ctf. No. 71,757. Teller, H. M., Secretary. June 29, 1882. Vol. 9, p. 297.

9. "The views of the Department in regard to the matter of rerating have been frequently stated. It has uniformly refused to disturb an adjudication of a claim by a former administration, except upon the most conclusive evidence that an error has been committed. When the question as to the propriety of a given rating is one of judgment, merely depending upon the weight of the evidence, it will not allow the opinion of to-day to overturn the opinion of yesterday; otherwise cases would never be settled. But where the incorrectness of the former action is so manifest, upon a review of the evidence, that it is not a matter of dispute, the Department will not refuse to do justice because the error is of long standing and has been sanctioned by subsequent action."

Coleman, James S. Ctf. No. 122,067. Teller, H. M., Secretary. June 16, 1884. Vol. 11, p. 291.

RULING OF THE COMMISSIONER OF PENSIONS.

RULING No. 67. October 14, 1881.

Hereafter no rerating of pension will be made in any case, except as hereafter provided:

1st. Cases of gunshot wound or injury, involving the loss of some part or member of the body, and causing a disability necessarily and absolutely permanent in degree, may be rerated, provided the rating therefor was too low.

2d. Cases of disease in which the rating was a manifest error, as shown by the evidence in the case at date of the adjudication, provided the complaint of appeal shall have been filed within twelve months after such rating.

[NOTE.—In reopening the claim of Noah N. Tyner, a pensioner under Ctf. No. 83,160, the Commissioner of Pensions (J. C. Black) used the following language: "I reopen this case with reluctance, as claimant has been exceedingly slow to avail himself of his privilege to produce testimony concerning his condition as to requiring regular aid and attendance. A re-rating will be made granting him \$50 per month, from February 27, 1884, less all payments made, that being the earliest date from which, construing all his testimony favorably, he shows himself entitled to a higher rate because of the need of personal aid and attendance. Re-rating from discharge is declined, as there is no sufficient evidence produced to justify such action; on the other hand, the medical evidence is insufficient to warrant a rating of one-half, covering the period mentioned."]

RESTORATION AND RENEWAL.**Section 4719, Revised Statutes.**

The failure of any pensioner to claim his pension for three years after the same shall have become due shall be deemed presumptive evidence that such pension has legally terminated by reason of the pensioner's death, remarriage, recovery from the disability, or otherwise, and the pensioner's name shall be stricken from the list of pensioners, subject to the right of restoration to the same on a new application by the pensioner, or, if the pensioner is dead, by the widow or minor children entitled to receive the accrued pension, accompanied by evidence satisfactorily accounting for the failure to claim such pension, and by medical evidence in cases of invalids who were not exempt from biennial examinations as to the continuance of the disability.

Sec. 26, 3 Mar., 1873; sec. 3, 27 July, 1868; see sec. 1, 6 Apr., 1838; see sec. 3, 23 Aug., 1842.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. Claims for, under section 3, act of July 27, 1868, entitle to accrued pension.

Wheeler, Agnew. No. 3,364. Cox, J. D., Secretary. Oct. 4, 1869. Vol. 2, p. 144.

2. In the examination of claims for restoration the same scrutiny is required as in original claims, and if, on examination, it is found that the claim was improperly allowed in the first instance, good ground is afforded for rejecting the claim for restoration.

Baldwin, A. J. Ctf. No. 26,347. Cowan, B. R., Acting Secretary. Mar. 14, 1873. Vol. 1, p. 321.

3. Pensioners under special acts are entitled to restoration from date of suspension of original pension.

NOTE.—Pension was granted under the general law and name subsequently stricken from the roll. A special act passed by Congress directed the Secretary of the Interior to "restore" her name to the roll. This decision construes the meaning of the word "restore."

Bybee, Margaret L. Ctf. No. 1,748. Delano, C., Secretary. May 23, 1873. Vol. 1, p. 370.

4. The first section of the act of March 3, 1865, acted simply to suspend payment of a pension during the time the pensioner was drawing the full pay or salary of a position under the General Government, and a claim for restoration to the rolls, after the repeal of said section by section 5 of the act of June 6, 1866, was not an application for a new pension, and would not, therefore, be subject to any limitation as to date of filing.

Deering, John, jr. Ctf. No. 32,784. Delano, C., Secretary. Nov. 25, 1873. Vol. 3, p. 67.

[NOTE.—By act of March 1, 1879, all pensions withheld from persons during the time they were employed in the civil service were restored to them.]

The act of March 1, 1879, is as follows:

AN ACT relating to soldiers while in the civil service of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all persons who, under

RESTORATION AND RENEWAL—Continued.

and by virtue of the first section of the act entitled "An act supplementary to the several acts relating to pensions," approved March third, eighteen hundred and sixty-five, were deprived of their pensions during any portion of the time from the third of March, eighteen hundred and sixty-five, to the sixth of June, eighteen hundred and sixty-six, by reason of their being in the civil service of the United States, shall be paid their said pensions, withheld by virtue of said section of the act aforesaid, for and during the said period of time from the third of March, eighteen hundred and sixty-five, to the sixth of June, eighteen hundred and sixty-six.

Approved, March 1, 1879.

See sec. 1, act 3 Mar., 1865, and sec. 5, act 6 June, 1866, and sec. 4724, R. S.

5. Claimants for *restoration* under section 4719, Revised Statutes, are entitled to original rate for the accrued pension.

Claims for *restoration* should not be termed claims for increase.

Shaw, E. P. App. No. 28,098. Delano, C., Secretary. June 16, 1875. Vol. 4, p. 76.

6. In claims for *renewal* the original rate should not be disturbed in granting arrears.

Fox, James. Ctf. No. 50,603. Cowen, B. R., Acting Secretary. Nov. 3, 1875. Vol. 4, p. 137.

7. In claims for *restoration* the continuance of the disability may be shown by non-professional testimony.

Calhoun, W. W. Ctf. No. 122,550. Chandler, Z., Secretary. Jan. 15, 1876. Vol. 4, p. 180.

8. Refusal of Commissioner of Pensions to order medical examination in claim for *restoration* until proof shall have been adduced to rebut the evidence upon which name was dropped from the rolls *approved*.

Swinton, John. Ctf. No. 55,951. Gorham, Charles F., Acting Secretary. Oct. 27, 1876. Vol. 4, p. 437.

9. Where continuance of pension is limited in the issue, medical evidence is not required under section 4719, Revised Statutes.

Smith, Abraham. Ctf. No. 107,706. Bell, A., Acting Secretary. Oct. 1, 1879. Vol. 7, p. 2.

10. A widow was pensioned from the death of her husband, and remarried. The children were pensioned from the date of such remarriage and the pension was paid until the youngest child became sixteen years of age. It afterward transpired that the remarriage of the widow was void: *Held*, that her pension should be restored from the date the youngest child became sixteen years of age.

Giles, Cyrenius, minors of. Ctf. No. 169,697. Schurz, C., Secretary. Nov. 26, 1879. Vol. 8, p. 55.

11. Application for *restoration* rejected upon the report of two boards of examining surgeons showing, as a matter of fact, no disability from cause alleged. Action of office *affirmed*.

Gorham, H. H. Ctf. No. 20,811. Schurz, C., Secretary. Dec. 20, 1879. Vol. 7, p. 133.

12. Where pension terminated on biennial examination, and was, upon medical examination, restored from the date of the last payment at a

RESTORATION AND RENEWAL—Continued.

lower rate of the original pension: *Held*, that there is no good reason for changing the rate fixed by the Pension Office.

McGonagle, Robert. Ctf. No. 128,412. Schurz, C., Secretary. Jan. 22, 1880. Vol. 7, p. 180.

13. Where, after granting of pension, the testimony on which it was allowed is impeached by testimony taken on special investigation, the date of the soldier's death, especially, being disproved, the date of his death (if he be dead) being not shown, the action of the office declining to restore name to roll is *approved*.

Dougherty, Mary M. Ctf. No. 181,325. Schurz, C., Secretary. June 8, 1880. Vol. 7, p. 380.

14. Where a pensioner failed to draw pension, and failed, as prescribed by section 4719, Revised Statutes, to furnish medical evidence of the continuance of his disability, the action of the office in dropping name from rolls *approved*.

Williams, John C. Ctf. No. 24,073. Schurz, C., Secretary. June 10, 1880. Vol. 7, p. 392.

15. Where widow applies for the restoration of her pension and the death cause, as shown by the testimony of the attending physician, had no connection with or dependency upon the gunshot wound received in the service and by reason of which the limb had been amputated: *Held*, that sufficient ground is furnished, from the facts presented, for dropping her name from the roll.

Flaher, Henrietta. Ctf. No. 152,354. Schurz, C., Secretary. June 15, 1880. Vol. 7, p. 401.

16. A pensioner's name was dropped from the rolls; repeated applications for restoration were acted adversely upon by the office, they being unaccompanied by testimony or reasons therefor: *Held*, that the Pension Office may properly refuse to reconsider its former action.

Short, Samuel. Ctf. No. 127,373. Kirkwood, S. J., Secretary. July 1, 1881. Vol. 8, p. 330.

RULING OF THE COMMISSIONER OF PENSIONS.

RULING No. 109. May 29, 1885.

In a claim for *restoration* the name of the pensioner, if it must be restored to the rolls, need not necessarily be so restored at the rate at which he was last paid, but at a rate proportionate to the degree of disability which the evidence shows to have existed during the period his name was off the rolls.

Wolf, George B. Ctf. No. 134,912.

ORDER OF THE COMMISSIONER OF PENSIONS.

ORDER No. 43. April 27, 1876.

In claims for *restoration* under section 4719, Revised Statutes, mere change of residence or absence from usual abode will not be deemed a satisfactory explanation of the failure to claim pension. The explanation must be such as to constitute a good and substantial reason for the failure to apply; and, in cases requiring medical evidence of the continuance of the disability, the claimant must be held to strict rules, and will be required to establish a clear case.

REVENUE MARINE SERVICE.

See CIVILIANS IN SERVICE OF A QUASI-MILITARY CHARACTER,
par. 13, and SEC. 4741, REVISED STATUTES.

REVOLUTIONARY WAR.

See OLD WARS, *par.* 23.

RHEUMATISM.**DECISION OF THE SECRETARY OF THE INTERIOR.**

"It is not absolutely essential that the appellant should furnish 'medical evidence of treatment for rheumatism while in the service or at date of discharge,' but it is essential that he should furnish evidence competent to satisfy the mind of a disinterested person that the 'lame back' or 'sciatica,' or whatever his present disability may be, is the result of exertion or exposure while in the service and line of duty. In order to do that it is not sufficient to show merely that he had an attack of rheumatism in the service. It must appear that the disease continued to affect him from that time. No evidence has been adduced to show that there was any trouble of a rheumatic nature for a period of more than five years after discharge. The presumption, therefore, is that the appellant recovered from any ailment he may have had in the Army, and that his present disability is due to other causes. He is not precluded from furnishing evidence to rebut that presumption, but as the claim now stands the Department can only concur with you in the decision that it is inadmissible."

Martin, William. No. 224,291. Joclyn, M. L., Acting Secretary. Apr. 15, 1884. Vol. 11, p. 202.

RULING OF THE COMMISSIONER OF PENSIONS.**RULING No. 134. August 29, 1885.**

In a case where rheumatism was alleged as the pathological sequence of an external injury the following opinion of John Campbell, M. D., Medical Referee, was approved by the Commissioner of Pensions:

"The best authorities recognize the existence of a peculiar constitutional condition spoken of as the 'rheumatic diathesis,' implying that, in a given case, all the elements may exist in a latent state for the development of rheumatism, whenever these peculiar constitutional elements are called into activity. An attack of rheumatism is often found to occur after some exposure to dampness, and may be either general or local, affecting several organs or only a single organ, tissue, or joint, preferring or choosing a location for its development where some deterioration, irritation, or morbid change has occurred from other causes, as, for example, a local injury, sprain, contusion, or dislocation, in which case the injury is not to be considered the cause of the rheumatism, but as determining its location. Rheumatism is often spoken of as 'caused

RHEUMATISM—Continued.

by sprains or other injuries,' and this view will be the more readily received upon reflection that more or less exposure usually accompanies every injury of importance. It may be further stated that such development is more liable to occur after injuries of no great severity, on the principle that where the injury is very great the direct constitutional disturbance is so great as to prevent the development of the pre-existing dyscrasia.

"It is not always possible to distinguish accurately between neuralgic and rheumatic pains upon testimony alone, neither for the purposes of justice to the claimant in a meritorious case is it necessary to do so, thus avoiding delay by giving him the benefit of the established practice of the office in *not* holding him to a strict pathology.

"It seems, therefore, that a legal approval of such claims for the injury alleged, 'and results,' would obviate all difficulties."

Wolford, W. R. App. No. 522,888. Order book, p. 95.

RULINGS OF THE COMMISSIONER OF PENSIONS.

Rulings relating to the adjudication of pension and bounty land claims.

1. December 3, 1874. See **ABANDONMENT**.
2. February 9, 1870. See **CIVILIANS IN SERVICE OF A QUASI-MILITARY CHARACTER**.
3. November 8, 1869. See **CIVILIANS IN SERVICE OF A QUASI-MILITARY CHARACTER**.
4. ———, 1865. See **BOUNTY-LAND, (ADMINISTRATORS)**.
5. December 5, 1871. See **CIVILIANS IN SERVICE OF A QUASI-MILITARY CHARACTER**.
6. December 7, 1880. See **PRESUMPTION OF DEATH**.
7. January 10, 1870. See **DECLARATIONS IN CLAIMS FOR BOUNTY-LAND**.
8. May 10, 1872. See **DECLARATIONS IN CLAIMS FOR INCREASE**.
9. January 16, 1873. See **DECLARATIONS, SUPPLEMENTARY AND EXPLANATORY**.
10. April 30, 1877. See **DECLARATIONS, FORMAL AND INFORMAL**.
11. October 16, 1876. See **DEPENDENCE (MOTHER'S)**.
12. December 16, 1876. See **DEPENDENCE**.
13. December 8, 1871. See **DESERTION**.
14. August 10, 1875. See **DESERTION**.
15. July 27, 1877. See **INCREASE (INVALID)**. ACT OF FEBRUARY 28, 1877.
16. (No date.) See **LINE OF DUTY**.

RULINGS OF THE COMMISSIONER OF PENSIONS—Continued.

17. August 14, 1869. See **LINE OF DUTY.**
18. March 7, 1871. See **EVIDENCE, WEIGHT OR SUFFICIENCY OF.**
19. June 6, 1871. See **EVIDENCE, WEIGHT OR SUFFICIENCY OF.**
20. February 6, 1873. See **EXAMINING SURGEONS.**
21. (No date.) See **GUARDIANS.**
22. October 12, 1877. See **GUARDIANS.**
23. February 9, 1870. See **TITLE OR RIGHT TO PENSION.**
24. August —, 1881. See **RATES OF PENSIONS (FOR HERNIA).**
25. March 26, 1873. See **INCREASE (INVALID).**
26. June 26, 1871. See **CONSTRUCTION OF LAW (ACTS OF JULY 27, 1868, AND FEBRUARY 14, 1871).**
27. September 29, 1874. See **CONSTRUCTION OF LAW (ACT OF JUNE 6, 1874).**
28. April 6, 1876. See **BOUNTY-LAND.**
29. April 19, 1876. See **CONSTRUCTION OF LAW (ACT OF JUNE 6, 1874).**
30. January 12, 1877. See **REIMBURSEMENT, and ACCRUED PENSION.**
31. March 15, 1877. See **GUN-BOAT, RAM FLEET, AND MISSISSIPPI MARINE BRIGADE.**
32. (No date.) See **LEGITIMACY.**
33. April 8, 1876. See **LEGITIMACY.**
34. August 20, 1875. See **LIMITATION.**
35. March 17, 1866. See **DISLOYALTY.**
36. June 9, 1870. See **DISLOYALTY.**
37. June 22, 1871. See **DISLOYALTY.**
38. March 4, 1872. See **DISLOYALTY.**
39. June 13, 1872. See **DISLOYALTY.**
40. May 7, 1878. See **MARRIAGE.**
41. October 2, 1866. See **MINORS.**
42. October 2, 1866. See **MINORS.**
43. December 7, 1870. See **MINORS.**
44. December 20, 1871. See **MINORS.**
45. (No date.) See **MISSOURI MILITIA.**
46. April 4, 1859. See **OLD WARS.**
47. September 22, 1869. See **PENSIONS, COMMENCEMENT OF.**
48. April 20, 1870. See **PENSIONS, COMMENCEMENT OF.**
49. December 7, 1870. See **INCREASE, WIDOWS, AND MINORS.**

RULINGS OF THE COMMISSIONER OF PENSIONS—Continued.

50. August 31, 1881. See MINORS.
51. February 1, 1891. See RATES OF PENSIONS (FOR DEAFNESS).
52. January 19, 1872. See GENERAL SERVICE.
53. December 31, 1866. See ATTORNEYS.
54. January 29, 1872. See ATTORNEYS.
55. October 9, 1876. See SOUNDNESS.
56. January 22, 1872. See SERVICE PENSIONS, WAR OF 1812 (PRIVATEERSMEN).
57. (No date.) See RATES OF PENSIONS.
58. December 31, 1866. See RECONSIDERATION OF ADJUDICATED CLAIMS.
59. March 7, 1871. See EVIDENCE, RECORD.
60. May 25, 1868. See REIMBURSEMENT.
61. June 27, 1878. See SERVICE PENSIONS, WAR OF 1812, AND BOUNTY-LAND.
62. August 2, 1871. See SERVICE PENSIONS, WAR OF 1812.
63. May 17, 1876. See SIOUX INDIAN MASSACRE AT NEW ULM, MINNESOTA, AUGUST 23, 1862.
64. December 4, 1877. See COMMISSIONER OF PENSIONS.
65. February 1, 1881. See SPECIAL ACTS.
66. March 4, 1872. See SERVICE PENSIONS WAR OF 1812.
67. October 14, 1881. See RE-RATING.
68. October 17, 1881. See CIVILIANS IN SERVICE OF A QUASI-MILITARY CHARACTER.
69. November 17, 1881. See MINORS.
70. November 17, 1881. See DEPENDENCE (FATHER'S).
71. November 17, 1881. See LIMITATION.
72. November 17, 1881. See INCREASE (ACT OF JUNE 16, 1880).
73. April 20, 1882. See LINE OF DUTY (ATHLETIC SPORTS).
74. May 10, 1882. See DECLARATIONS, FORMAL AND INFORMAL.
75. June 22, 1882. See LINE OF DUTY (INFANTRY SOLDIERS ACCIDENTALLY WOUNDED BY REVOLVERS IN THEIR POSSESSION).
76. March 29, 1883. See EVIDENCE, WEIGHT OR SUFFICIENCY OF.
77. September 24, 1883. See FEES OF AGENTS AND ATTORNEYS.
78. December 6, 1883. See DISCHARGE, DATE OF.
79. June 21, 1884. See FEES OF AGENTS AND ATTORNEYS.

RULINGS OF THE COMMISSIONER OF PENSIONS—Continued.

80. April 3, 1884. See **RATES OF PENSIONS.**
81. March 27, 1885. See **LINE OF DUTY, Par. 17.**
82. March 28, 1885. See **OLD WARS.**
83. March 29, 1885. See **ATTORNEYS.**
84. March 29, 1885. See **APPEALS.**
85. April 7, 1885. See **MARRIAGE.**
86. April 7, 1885. See **TITLE OR RIGHT TO PENSION (WIDOWS),
and DEPENDENCE (MOTHER'S).**
87. April 7, 1885. See **LINE OF DUTY, Par. 9.**
88. April 13, 1885. See **BOUNTY-LAND.**
89. April 13, 1885. See **BOUNTY-LAND.**
90. April 15, 1885. See **PRESUMPTION OF DEATH.**
91. April 16, 1885. See **SOUNDNESS.**
92. April 16, 1885. See **DECLARATIONS, SUPPLEMENTARY
AND EXPLANATORY.**
93. April 16, 1885. See **DECLARATIONS, SUPPLEMENTARY
AND EXPLANATORY.**
94. April 20, 1885. See **BOUNTY-LAND.**
95. April 25, 1885. See **DECLARATIONS, FORMAL AND IN-
FORMAL.**
96. April 27, 1885. See **DROPPING NAMES OF PENSIONERS
FROM THE PENSION-ROLL.**
97. May 1, 1885. See **PENSION CLAIMS, WHEN THEY MAY
BE SAID TO BE ALLOWED.**
98. May 1, 1885. See **DEPENDENCE (MOTHER'S).**
99. May 1, 1885. See **RANK.**
100. May 6, 1885. See **LINE OF DUTY, Par. 8.**
101. May 9, 1885. See **LINE OF DUTY.**
102. May 13, 1885. See **DROPPING NAMES OF PENSIONERS
FROM THE PENSION-ROLL.**
103. May 14, 1885. See **EVIDENCE, WEIGHT OR SUFFICIENCY
OF.**
104. May 19, 1885. See **LINE OF DUTY, WHEN IT MAY BE PRE-
SUMED.**
105. May 20, 1885. See **ADULTEROUS COHABITATION.**
106. May 25, 1885. See **DECLARATIONS, SUPPLEMENTARY
AND EXPLANATORY.**
107. May 25, 1885. See **DISLOYALTY.**
108. May 26, 1885. See **WIDOWS.**
109. May 29, 1885. See **RESTORATION AND RENEWAL.**
110. June 1, 1885. See **DESERTION.**

RULINGS OF THE COMMISSIONER OF PENSIONS—Continued.

- 111. June 1, 1885. See DESERTION.
- 112. June 1, 1885. See LINE OF DUTY, Par. 18.
- 113. June 3, 1885. See ADULTEROUS COHABITATION.
- 114. June 8, 1885. See DEPENDENCE (MOTHER'S).
- 115. June 8, 1885. See DEPENDENCE (FATHER'S).
- 116. June 9, 1885. See REMARRIAGE OF WIDOWS.
- 117. June 11, 1885. See DEPENDENCE (FATHER'S).
- 118. June 11, 1885. See PENSIONS, COMMENCEMENT OF.
- 119. June 12, 1885. See DESERTION.
- 120. July 15, 1885. See BOUNTY-LAND.
- 121. July 20, 1885. See DISLOYALTY.
- 122. July 20, 1885. See DESERTION.
- 123. July 21, 1885. See GUARDIANS.
- 124. July 21, 1885. See FEES OF AGENTS AND ATTORNEYS.
- 125. July 22, 1885. See DESERTION.
- 126. July 30, 1885. See EVIDENCE, WEIGHT OR SUFFICIENCY OF.
- 127. August 5, 1885. See LEGITIMACY.
- 128. August 3, 1885. See LINE OF DUTY, Par. 9.
- 129. August 10, 1885. See SPECIAL ACTS.
- 130. August 11, 1885. See FEES OF AGENTS AND ATTORNEYS.
- 131. August 21, 1885. See DISABILITY.
- 132. August 29, 1885. See DESERTION.
- 133. August 29, 1885. See LINE OF DUTY, Par. 17.
- 134. August 29, 1885. See RHEUMATISM.
- 135. September 4, 1885. See DESERTION.
- 136. October 21, 1885. See DESERTION.
- 137. October 30, 1885. See DESERTION.
- 138. October 30, 1885. See DESERTION.
- 138½. October 31, 1885. See REDUCTION OF RATES OF PENSIONS.
- 139. November 11, 1885. See FEES OF AGENTS AND ATTORNEYS.
- 140. November 11, 1885. See PRESUMPTION OF DEATH.
- 141. November 9, 1885. See DECLARATIONS, SUPPLEMENTARY AND EXPLANATORY.
- 142. November 10, 1885. See LINE OF DUTY (ACCIDENTS, CARELESSNESS).
- 143. November 10, 1885. See DESERTION.

RULINGS OF THE COMMISSIONER OF PENSIONS—Continued.

- 144. November 11, 1885. See EVIDENCE, WEIGHT SUFFICIENCY OF.
- 145. November 11, 1885. See CAUSE OF DEATH.
- 146. November 12, 1885. See CAUSE OF DEATH.
- 147. November 16, 1885. See ATTORNEYS.
- 148. November 18, 1885. See ACCRUED PENSION.
- 149. November 24, 1885. See SPECIAL ACTS.
- 150. November 24, 1885. See DISCHARGE, DISHONORABLE.
- 151. November 25, 1885. See LINE OF DUTY (ACCIDENTS, CARELESSNESS).
- 152. November 25, 1885. See SPECIAL ACTS.
- 153. December 5, 1885. See DESERTION.
- 154. December 4, 1885. See ADULTEROUS COHABITATION, &C.
- 155. December 5, 1885. See MARRIAGE.
- 156. December 10, 1885. See DESERTION.
- 157. December 10, 1885. See DESERTION.
- 158. December 18, 1885. See GUARDIANS.
- 159. December 20, 1885. See DESERTION.
- 160. December 21, 1885. See DEPENDENCE.
- 161. December 23, 1885. See GUARDIANS.

S.**SECOND COMPTROLLER.****DECISION OF THE SECRETARY OF THE INTERIOR.**

The Second Comptroller has no authority to direct the payment of pensions. Such authority belongs only to the Secretary of the Interior, acting through the Commissioner of Pensions.

Collins, William T. Chandler, Z., Secretary. Mar. 30, 1876. Vol. 4, p. 243.

See also opinion of the Attorney-General in the case of the minors of Alexander Boone under head of JURISDICTION.

SECRETARY OF THE INTERIOR.**Section 437, Revised Statutes.**

"There shall be at the seat of Government an Executive Department to be known as the Department of the Interior, and a Secretary of the Interior, who shall be the head thereof."

Act 3 Mar., 1849.

SECRETARY OF THE INTERIOR—Continued.

Section 441, Revised Statutes.

"The Secretary of the Interior is charged with the supervision of public business relating to the following subjects:"

* * * * *

"*Fourth.*—Pensions and bounty-lands."

* * * * *

Act 8 Mar., 1849; act 8 July, 1870.

See OPINION OF ATTORNEY-GENERAL IN THE CASE OF THE MINORS OF ALEXANDER BOONE, UNDER HEAD OF JURISDICTION.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. (1) Should review decisions of predecessors only to the extent of correcting errors in matters of calculation and of considering new and important evidence which may be discovered.

case of Lilly, Edward. Harlan, James, Secretary. Jan. 12, 1876. Vol. 1, p. 49.
Lowe, Theo. App. No. 112,016. Chandler, Z., Secretary. Jan. 26, 1876. Vol. 4, p. 124.
Dan Drake, Henry. Schurz, C., Secretary. June 19, 1879. Vol. 6, p. 368.
Roden, Charles. App. No. 202,047. Schurz, C., Secretary. Nov. 20, 1879. Vol. 7, p. 74.
See also cases of William Zerman, vol. 5, p. 68, and George Young, vol. 4, p. 174.

(2) Decisions of, are binding upon his successors.

Opinions of the Attorney-General, vol. 2, p. 463; vol. 5, pp. 29, 63; vol. 6, pp. 240, 264; vol. 7, p. 701; vol. 9, p. 100; vol. 12, p. 355. United States vs. Bank of the Metropolis (15 Peters, p. 400); United States vs. Stone (2 Wallace, p. 625); Julian Allre. B. L. No. 279, 607. Delano, C., Secretary. Jan. 11, 1871. Vol. 1, p. 96.

2. In all cases in which the action of the Commissioner of Pensions is *affirmed* on appeal to the Secretary of the Interior, the attorney or appellant should be furnished with a copy of the decision rendered. In all cases where the decision of the Commissioner of Pensions is *reversed*, and where the letter of the Department does not enter into the merits of the case, this rule will not apply.

Instructions: Delano, C., Secretary. June 11, 1872. Vol. 1, p. 198.

3. Decisions of, should be regarded as having a general application to all similar cases.

Sample, Adela. App. No. 205,604. Delano, C., Secretary. Jan. 29, 1873. Vol. 1, p. 266.

4. Decisions of, will not be discussed with attorneys.

See ATTORNEYS, *par.* 10.

5. Cannot question the correctness of the records of the War Department.

Ricot, Leopold. App. No. 115,626. Cowen, B. R., Acting Secretary. Oct. 8, 1875. Vol. 4, p. 146.

6. Where claims have been adjudicated by a former administration under a provision of law in regard to which different opinions have been held, it is not proper to disturb such original action, and title to

SECRETARY OF THE INTERIOR—Continued.

pension in such cases will be considered as finally adjudicated and increase or diminish the rate of pension in accordance with the provisions of existing law.

Nix, Jacob. App. No. 100,703. Schurz, C., Secretary. Aug. 7, 1877. Vol. 5, p. 168.

7. Reconsideration of decision of the Department will not be refused where manifest error has been committed, even though new evidence is not presented and no appeal taken within five years from the adjudication of the case.

McClurney, Elizabeth, widow of McClurney, William J. Ctf. No. 411 (Navy). Schurz, C., Secretary. Oct. 1, 1878. Vol. 6, p. 114.

8. Reconsideration of decision of former administration of Department is declined in cases wherein title to pension is affected, and where, in the original settlement, all the facts were presented; there having been no change in the facts or law, the decision should not be reversed, even though the incumbent believes his predecessor committed an error in judgment.

Riley, Thomas. Ctf. No. 187,019. Bell, A., Acting Secretary. Nov. 19, 1878. Vol. 6, p. 161. (Vide vol. 2, p. 79.)

See also case of Hiram C. Shouse. Ct. No. 50,864. Kirkwood, S. J., Secretary. Dec. 20, 1881. Vol. 9, p. 43.

9. An invalid pension was increased to \$12 per month from June 10, 1875, the date of his original examination for increase. A claim for further increase was filed accompanied with a claim that a higher rate should have been allowed for the whole period since discharge. This claim was rejected and the rejection was affirmed by the Secretary, September 23, 1876, as to the rate of pension and date of commencement of increase. Another claim for increase was filed December 27, 1880, and the applicant was examined by a board of surgeons June 1, 1881. This claim was also rejected and an appeal entered. In the report on the appeal it was suggested, on the opinion of the Medical Referee, that the rating had been too low, and that the pension should be re-rated at \$16 per month from June 10, 1875, when the increase to \$12 per month was made. The Secretary declined to have the former action of the Department and of the Pension Office disturbed, but had no objection to the allowance of the \$16 per month from June 1, 1881, the date of examination under the claim for increase.

Hannan, Joseph. Ctf. No. 73,383. Kirkwood, S. J., Secretary. Dec. 25, 1881. Vol. 9, p. 49.

10. When the right to pension had been determined by this office in 1866 and the allowance of the same was not disturbed in the adjudications of applications for increase in 1872 and 1879, and no evidence having been presented "to alter the facts as they existed at the time of the original adjudication or to show that the action then taken was based upon any false or fraudulent representations on the part of the

SECRETARY OF THE INTERIOR—Continued.

claimant," it was *held* "that the propriety of the original allowance of pension should not be questioned."

Kite, Alfred. Ctf. No. 709 (Mexican War). Teller, H. M., Secretary. May 16, 1882. Vol. 2, p. 188.

11. Pension was allowed in 1875 for heart disease, at the rate of \$2 per month from discharge and \$8 from March 7, 1875. An appeal was entered in 1882 from the rating, claiming that \$8 per month should have been allowed for the entire period. The appeal contained the first intimation of dissatisfaction on the part of the pensioner with the adjudication of the claim. Nor did he file any evidence to sustain the charge of injustice. On this state of facts the refusal of this office to readjudicate the claim was sustained on appeal, the Hon. Secretary stating that "It is an established rule of the Department not to disturb an adjudication of a claim by a former administration except upon the most conclusive evidence that error had been committed. In a case like the present, when the question is one of judgment as to the proper estimate of the extent of a disability, and the rate of pension allowed conforms to the degree of disability reported by the examining surgeons, it is not probable that any evidence could be presented which could be accepted as sufficient to warrant a readjudication of the claim to allow a higher rate."

Holman, Joseph W. Ctf. No. 184,180. Teller, H. M., Secretary. June 5, 1882. Vol. 2, p. 244.

SENECA INDIANS IN WAR OF 1812.

See SERVICE PENSIONS, WAR OF 1812, par. 25.

SERVICE, EVIDENCE AND PERIOD OF.**Section 4701, Revised Statutes.**

The period of service of all persons entitled to the benefits of the pension laws, or on account of whose death any person may become entitled to a pension, shall be construed to extend to the time of the disbanding the organization to which such persons belonged, or until their actual discharge for other cause than the expiration of the service of such organization.

Sec. 7, 3 Mar., 1873; sec. 9, 6 June, 1866.

DECISION OF THE SECRETARY OF THE INTERIOR.

"The enlistment and discharge of soldiers, whether regulars, volunteers, or militia, pertains exclusively to the business of the War Department."

"No evidence should be accepted by the Pension Office to controvert the rolls and records of the War Department or to supply defects in such records."

SERVICE, EVIDENCE AND PERIOD OF—Continued.

When a person files a claim for pension, alleging that he had enlisted in a regiment which was accepted into the United States service during the late war, and it appears from the report of the proper officer of the War Department that there is no evidence on file of his enlistment, he or his attorney should be advised of such report and informed that correspondence concerning the alleged defect should be directed to the War Department.

"If evidence should come into possession of the Pension Office, showing, or tending to show, that a defect or error exists in any roll or record in the War Department, the evidence should be referred to that Department for such action as may be deemed proper."

"When an application for pension is made by a person who has not been discharged from the service of the United States, he should be referred to the War Department, and action upon his claim be suspended until he has obtained a discharge."

*Carpenter, James H. No. 274,501. Kirkwood, S. J., Secretary. Oct. 11, 1881. Vol. 8, p. 446.
Vide case of Anna Smith, former widow of W. J. Sowell. No. 262,211. Teller, H. M., Secretary.
Nov. 18, 1884. Vol. 11, p. 282.*

See EVIDENCE, RECORD; also SERVICE PENSIONS, WAR OF 1812, *para.* 21, 22, 23, 24.

RULINGS OF THE COMMISSIONER OF PENSIONS.**BULING No. 61. June 27, 1878.**

In the adjustment of claims for service pension and for bounty-land warrants, the term of service shall be computed so as to include both the day of muster in and the day of muster out, and in such cases as additional days have been paid for, or allowed on account of travel, such additional time shall also be included.

In cases wherein it becomes important to ascertain what portion of such additional time was allowed for travel to the place of muster in, and how much from the place of muster out, and the facts do not appear of record, one-half shall be counted previous to the day of muster in, and one-half subsequent to the day of muster out.

In pension cases where the record fails to show service, parole proof of the service will be received from comrades who served in the same company with the claimant, *provided* there is a record of the service of the claimant's company and of the service of the witnesses in said company at the time claimant's service is alleged to have been rendered.

In pension cases wherein it appears that a bounty-land warrant has been issued on account of pensionable service, such service shall be taken as established, unless, upon examination of the proofs upon which the land-warrant was issued, it shall appear either that there was no proof whatever of such service, or that the term of service was erroneously computed.

SERVICE, EVIDENCE AND PERIOD OF—Continued.

RULING No. 64. *December 4, 1877.*

It is not competent for the Commissioner of Pensions to dispute the service of a claimant whose service is established under the provisions of the act of Congress, approved March 25, 1862, entitled "An act to secure to the officers and men actually employed in the Western Department, or Department of Missouri, their pay, bounty, and pension"; and of joint resolution No. 51, approved July 12, 1862.

ORDER OF THE COMMISSIONER OF PENSIONS.

ORDER No. 41. *April 11, 1876.*

In the adjudication of claims for pension and bounty-land, the service of officers and enlisted men who testify as to the origin of disease or other facts relative to the service of the soldier should be referred to the proper Department for verification. The verification of signatures of officers and enlisted men will not be required, except at the discretion of chiefs of division.

SERVICE PENSIONS, WAR OF 1812.**1. ACCRUED PENSIONS.****DECISIONS OF THE SECRETARY OF THE INTERIOR.**

(1) A widow is entitled to accrued pension in an 1812 claim if pending at soldier's death.

Delano, C., Secretary. Mar. 23, 1872. Ctf. No. 15,889. Ferris, Julia. Vol. 1, p. 179.

(2) Those heirs only who are mentioned in section 4718, Revised Statutes, are entitled.

Schurz, C., Secretary. May 1, 1879. O. W. file, No. 9,788. Lemaster, George. Vol. 6, p. 320. O. W. and N. Vol. 2, p. 109.

RULING OF THE COMMISSIONER OF PENSIONS.

RULING No. 26. *June 26, 1871.*

The ninth section of the act of July 27, 1868 [see section 4718, R. S.] does not apply to claims made under the act of February 14, 1871. [Section 4736 *et seq.*, R. S.]

(*For law and other decisions see title ACCRUED PENSIONS.*)

2. APPLICATIONS.

Section 4, act of March 9, 1878.

That all applications for pensions of the classes provided for in this act heretofore or which may hereafter be made shall be considered and decided as though made under this act; and all laws now in force in regard to the manner of paying pensions, and in reference to the pun-

SERVICE PENSIONS, WAR OF 1812—Continued.

ishment of frauds, shall be applicable to all claims under the provisions of this act.

See also PARAGRAPH 11 THIS TITLE.

3. ATTORNEYS.**DECISIONS OF THE SECRETARY OF THE INTERIOR.**

(1) Recognition in a claim under act of February 14, 1871, is ground for recognition in same claim under act of March 9, 1878.

Schurz, C., Secretary. Oct. 4, 1878. Ctf. No. 25 104. Abel, Abel. Vol. 6 p. 122. O. W. and N. Vol. 2, p. 22.

(2) A claim rejected under the act of February 14, 1871, on the ground of insufficient service, but admissible under the act of March 9, 1878, was found to have been completed prior to March 9, 1878, by the attorney who filed the claim under the former act: *Held*, that he, and not the attorney who filed under the latter act and who was not required to file any evidence, was entitled to recognition.

Schurz, C., Secretary. June 20, 1878. Ctf. No. 22,522. Holter, George. O. W. and N. Vol. 2, p. 123.

RULING OF THE COMMISSIONER OF PENSIONS.

RULING No. —. November 23, 1878.

In a claim rejected under the act of February 14, 1871, and not called up by the attorney within six months after the passage of the act of March 9, 1878: *Held*, that a new attorney was properly recognized.

Ctf. No. 24,570. Miller, Anson. O. W. and N. Vol. 2, p. 43.

[NOTE.—This ruling was published in a circular relative to waiver, &c., soon after the passage of the act of March 9, 1878.]

See also ATTORNEYS.

4. CITIZENSHIP AND OATH OF ALLEGIANCE.**DECISIONS OF THE SECRETARY OF THE INTERIOR.**

(1) Survivors must file oath of allegiance.

Delano, C., Secretary. Apr. 17, 1873. No. 10,743. Robinson, Margaret, widow of Richard. Vol. 1, p. 242.

Reversed. *See* (3), this paragraph.

(2) Loss of citizenship forfeits pension under act of February 14, 1871.

Delano, C., Secretary. Sept. 25, 1874. Ctf. No. 21,941. Webster, Pamela, widow of Joshua. Vol. 3, p. 317.

Reversed. *See* next decision.

(3) Oath of allegiance is not required. Loss of citizenship does not forfeit pension under act of February 14, 1871, as amended by section 4736, Revised Statutes.

Delano, C., Secretary. July 2, 1875. Ctf. No. 21,941. Webster, Pamela, widow of Joshua. Vol. 4, p. 91.

See PARAGRAPH 9 THIS TITLE.

SERVICE PENSIONS, WAR OF 1812—Continued.**5. CIVILIAN EMPLOYÉS.****DECISIONS OF THE SECRETARY OF THE INTERIOR.**

(1) Privateersmen are not entitled as enlisted men or as volunteers in the naval service of the United States.

Delano, C., Secretary. Jan. 22, 1872. No. 2,208. Booth, William. Vol. 1, p. 147. O. W. and N. Vol. 2, p. 23.

Delano, C., Secretary. Mar. 2, 1872. No. 17,372. De Peyster, William. O. W. and N. Vol. 3, p. 157.

(2) Teamsters are not entitled to pension.

Schurz, C., Secretary. Oct. 3, 1878. No. 20,245. Pierce, Samuel. O. W. and N. Vol. 2, p. 81.

Schurz, C., Secretary. Oct. 25, 1878. No. 18,511. Derby, Tryphena. Vol. 6, p. 150.

Schurz, C., Secretary. Mar. 1, 1879. No. 29,812. Carter, Betsey. O. W. and N. Vol. 3, p. 78.

Schurz, C., Secretary. Feb. 17, 1880. No. 36,501. Scully, Mary. Vol. 7, p. 219. O. W. and N. Vol. 2, p. 243.

Teller, H. M., Secretary. June 12, 1882. No. 19,574. Beckley, Hannah. O. W. and N. Vol. 3, p. 103.

(3) Service as waiter does not give title.

Schurz, C., Secretary. Dec. 19, 1879. No. 13,630. Ulmer, Nancy H. Vol. 7, p. 132.

Schurz, C., Secretary. Feb. 11, 1881. No. 33,994. Averill, Calvin K. O. W. and N. Vol. 2, p. 338.

(4) Service as packhorseman does not give title.

Bell, A., Acting Secretary. Aug. 31, 1880. No. 37,814. McCoy, Elizabeth. Vol. 7, p. 471. O. W. and N. Vol. 2, p. 325.

RULING OF THE COMMISSIONER OF PENSIONS.

RULING No. 56. January 22, 1872.

Privateersmen are not regarded as enlisted men in the service of the United States.

See also PARAGRAPH 24, BOUNTY-LAND.

6. COMPANY, RECORD OF, NECESSARY.

See PARAGRAPH 24 THIS TITLE.

7. DESERTION.

See PARAGRAPH 8 THIS TITLE.

8. DISCHARGE, HONORABLE.

(For law, see paragraph 28 this title.)

DECISIONS OF THE SECRETARY OF THE INTERIOR.

(1) Desertion from service on which claim is based, bars pension.

Delano, C., Secretary. Mar. 23, 1875. Ctf. No. 25,679. McAlpine, Daniel. (Not recorded.)

See decision in same case by Hon. G. A. Jenks, Assistant Secretary, dated August 10, 1885, as follows: Where charge of desertion remaining against the record of a soldier of the war of 1812, was removed by an act of Congress, which act also directed the Secretary of the Interior to place his name upon the pension-roll, and where said soldier claimed that the charge of desertion, which was the only bar to his being allowed a pension under the general law, having been removed, he was entitled, under section 4715, Revised Statutes, to surrender his special act certificate and receive a pension under the general law to commence from February 14, 1871: *Held*, that, inasmuch as the date of the commencement of the pension allowed by the special act was not fixed by the act itself, the case, in that respect, is subject to the provisions of section 4720, Revised Statutes, and the pension must be made to commence from the date of the passage of the special act.

SERVICE PENSIONS, WAR OF 1812—Continued.**(2) Desertion from a former service does not bar.**

Delano, C., Secretary. May 19, 1875. Ctf. No. 21,670. Barnea, James. Vol. 4, p. 45.

(3) Not an honorable discharge where soldier was surrendered to civil authorities and sent to State prison.

Schurz, C., Secretary. Apr. 17, 1877. No. 30,535. Tender, Illexus. Vol. 5, p. 84.

(4) Discharge on account of having furnished a substitute is not such an honorable discharge as is contemplated by the law.

Schurz, C., Secretary. Oct. 27, 1877. Ctf. No. 25,106. Abel, Axel. Vol. 5, p. 251.

Reversed. See next decision.

(5) Discharge on account of having furnished a substitute is an honorable discharge.

Schurz, C., Secretary. Dec. 23, 1878. Ctf. No. 16,512. Parker, Celinda A. Vol. 6, p. 200. O. W. and N. Vol. 2, p. 60.

(6) Desertion is a bar, notwithstanding the issue of a land warrant.

Schurz, C., Secretary. Mar. 5, 1880. No. 21,854. Ellis, Hannah. Vol. 7, p. 247. O. W. and N. Vol. 3, p. 263.

Kirkwood, S. J., Secretary. May 14, 1881. No. 34,734. Wilson, Sarah T. Vol. 8, p. 237. O. W. and N. Vol. 3, p. 1.

See PROVISIO TO SECTION 3, ACT OF MARCH 9, 1878; PARAGRAPH 10 THIS TITLE.

RULING OF THE COMMISSIONER OF PENSIONS.

BULING No. —. December 29, 1878.

Soldier deserted, after serving three days, in June, 1814. He served twelve days in another tour of the company in July, 1814: *Held*, that as there is no evidence that the company was disbanded after the first tour of service, the subsequent return to service and honorable discharge condones the desertion.

Ctf. No. 18,092. Mitchell, Elizabeth. O. W. and N. Vol. 2, p. 68.

See also DISCHARGE, AND PARAGRAPH 37, BOUNTY-LAND.

9. DISLOYALTY.**Section 4716, Revised Statutes.**

No money on account of pension shall be paid to any person, or to the widow, children, or heirs of any deceased person, who in any manner voluntarily engaged in, or aided or abetted, the late rebellion against the authority of the United States.

Sec. 23, 3 Mar., 1873; sec. 4, 14 July, 1862; see act 4 Feb., 1862, and joint resolution 2 Mar., 1867; see act 3 Mar., 1877, sec. 23.

DECISIONS OF THE SECRETARY OF THE INTERIOR.**(1) Paying taxes to the Confederate Government was aiding and abetting the rebellion.**

Cowen, R. R., Acting Secretary. Nov. 2, 1875. Ctf. No. 28,343. Davis, Henry L., widow of. O. W. and N. Vol. 1, p. 21.

Reversed, see (4), this paragraph.

SERVICE PENSIONS, WAR OF 1812—Continued.

(2) Exercising the functions of an office under the government of a State in rebellion against the United States was aiding and abetting the rebellion within the intent of section 4716, Revised Statutes.

Gorham, Charles T., Acting Secretary. Oct. 12, 1876. No. 24,528. Havis, Jesse D., widow of. O. W. and N. Vol. 1, p. 23.

Schurz, C., Secretary. Feb. 14, 1878. Ctf. No. 24,215. Hobacked, Jacob. O. W. and N. Vol. 1, p. 23.

(3) Sympathy with the rebellion, without aiding it by word or deed, does not bar allowance of pension.

Schurz, C., Secretary. Nov. 10, 1877. Ctf. No. 29,099. Anstill, Jeremiah, widow of. O. W. and N. Vol. 1, p. 50.

(4) Presumption of disloyalty raised by the fact of payment of taxes to the Confederate Government and furnishing food and clothing to sons in the Confederate army, from motives of "love, affection, and the dictates of humanity," may be rebutted by showing distinctly and positively that the taxes were paid under duress, that claimant opposed the enlistment of said sons, and that he was opposed to the rebellion and distinctly in favor of its suppression.

Schurz, C., Secretary. July 12, 1878. B. L. No. 333,028. Happel, Philip. Vol. 6, p. 24.

Schurz, C., Secretary. July 17, 1878. Ctf. No. 28,343. Davis, Henry L., widow of. Not recorded.

(5) Attempt to raise a company for service in the Confederate army is sufficient evidence of disloyalty to bar pension.

Schurz, C., Secretary. May 12, 1879. Ctf. No. 11,041. Clayton, Elijah. O. W. and N. Vol. 2, p. 116.

RULINGS OF THE COMMISSIONER OF PENSIONS.**RULING No. 37. June 22, 1871.**

In view of the express requirements of the act of February 14, 1871 (war of 1812), proof of loyalty will, in all cases, be required and carefully examined, and the law strictly construed.

RULING No. 38. March 4, 1872.

Loyalty of the soldier, if he survived after the commencement of the late rebellion, must in all cases be proven.

See also DISLOYALTY, AND PARAGRAPH 38, BOUNTY-LAND.

10. EVIDENCE OF SERVICE.**Section 4739, Revised Statutes.**

Before the name of any person is placed upon the pension-roll under the three preceding sections, proof shall be made, under such regulations as the Secretary of the Interior may prescribe, that the applicant is entitled to a pension under the provisions of the sections herein cited; and the Secretary of the Interior shall cause to be stricken from the pension-roll the name of any person whenever it appears, by proof satisfactory,

SERVICE PENSIONS, WAR OF 1812—Continued.

that such name was put upon such roll through false or fraudulent representations.

Sec. 2, 14 Feb., 1871; see act 9 Mar., 1878.

Section 4740, Revised Statutes.

The loss of a certificate of discharge shall not deprive an applicant of the benefits of section forty-seven hundred and thirty-six, forty-seven hundred and thirty-seven, and forty-seven hundred and thirty-eight, but other proof of services performed and of an honorable discharge, if deemed satisfactory, shall be sufficient.

Sec. 2, 14 Feb., 1871; see act 9 Mar., 1878.

Section 3 act of March 9, 1878.

That before the name of any person shall be placed upon the pension rolls under this act proof shall be made, under such rules and regulations as the Commissioner of Pensions, with the approval of the Secretary of the Interior, shall prescribe, that the applicant is entitled to a pension under this act; and any person who shall falsely take any oath required to be taken under the provisions of this act shall be guilty of perjury; and the Secretary of the Interior shall cause to be stricken from the rolls the name of any person when it shall appear, by proof satisfactory to him, that such name was put on said rolls by or through false or fraudulent representations, or by mistake as to the right of such person to a pension under this act. The loss or lack of a certificate of discharge shall not deprive the applicant of the benefit of this act, but other proof of the service performed and of an honorable discharge, if satisfactory, shall be deemed sufficient; and when there is no record evidence of such service and such discharge, the applicant may establish the same by other satisfactory testimony: *Provided*, That when any person has been granted a land-warrant, under any act of Congress, for and on account of service in the said war of 1812, such grant shall be *prima facie* evidence of his service and honorable discharge, so as to entitle him, if living, or his widow if he be dead, to a pension under this act; but such evidence shall not be conclusive, and may be rebutted by evidence that such land-warrant was improperly granted.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

(1) Record of payment indicating sixty days' service is accepted as proof of such service.

Smith, W. H., Acting Secretary. Sept. 2, 1873. Ctf. No. 21,056. Barker, J. W. Vol. 3, p. 11.

(2) Commissions issued to officers are not evidence of their service.

Delano, C., Secretary. June 19, 1874. No. 7,150. Harden, Mary A. E. Vol. 3, p. 243.

(3) Service by substitute must be shown by the record.

Delano, C., Secretary. Oct. 23, 1874. No. 4,705. Reeves, Abimacl K. Vol. 3, p. 346. (Reversed in part; see next.)

SERVICE PENSIONS, WAR OF 1812—Continued.

(4) Parol evidence may be received to show that a soldier served as a substitute.

Schurz, C., Secretary. Dec. 21, 1878. Ctf. No. 15,466. Bartlett, Matilda. Vol. 6, p. 198. O. W. and N. Vol. 2, p. 59.

(5) Parol testimony is not received to establish title unless distinctly showing a service of fourteen days.

Bell, A., Acting Secretary. July 30, 1879. No. 34,902. Allison, Mary. O. W. and N. Vol. 2, p. 183.

(6) Parol evidence is admissible to show that the principal rendered a part of the service, although the rolls indicate that the substitute served the entire period and received all the pay.

Schurz, C., Secretary. Jan. 21, 1880. Ctf. No. 29,058. Riley, Nancy. Vol. 7, p. 178. O. W. and N. Vol. 2, p. 224.

RULING OF THE COMMISSIONER OF PENSIONS.

RULING No. 61. June 27, 1878.

In the adjustment of claims for service pension and for bounty-land warrants, the term of service shall be computed so as to include both the day of muster in and the day of muster out, and in such cases as additional days have been paid for, or allowed on account of travel, such additional time shall also be included.

In cases wherein it becomes important to ascertain what portion of such additional time was allowed for travel to the place of muster in, and how much from the place of muster out, and the facts do not appear of record, one-half shall be counted previous to the day of muster in, and one-half subsequent to the day of muster out.

In pension cases where the record fails to show service, parol proof of the service will be received from comrades who served in the same company with the claimant, *provided* there is a record of the service of the claimant's company, and of the service of the witnesses in said company at the time claimant's service is alleged to have been rendered.

In pension cases wherein it appears that a bounty-land warrant has been issued on account of pensionable service, such service shall be taken as established, unless, upon examination of the proofs upon which the land-warrant was issued, it shall appear either that there was no proof whatever of such service, or that the term of service was erroneously computed.

See also PARAGRAPHS 16 AND 23, THIS TITLE, AND SERVICE.

11. FORMS AND REGULATIONS.*Declaration of soldier for service pension*

STATE OF ———, COUNTY OF ———, ss:

On this ——— day of ———, A. D. one thousand eight hundred and ———, personally appeared before me, ———, the same being a court of record within and for the county and State aforesaid,¹ ———, aged ——— years, a resident of ———, in the county of ———, in the State of ———, who, being duly sworn according to law, de-

¹ Here allege full name of the claimant.

SERVICE PENSIONS, WAR OF 1812—Continued.

declares that he is the identical² ——— who served under the name of³ ———, as a⁴ ———, in the company commanded by Captain ———, in the ——— regiment of ———, commanded by ———, in the war of 1812; that he⁵ ——— at ——— on or about the ——— day of ———, A. D. ———, for the term of ———, and continued in actual service in said war for the term of⁶ ———, and was honorably discharged at ———, on the ——— day of ———, A. D. ———; that since his discharge from said service he has resided as follows, viz: ⁷ ———. The following was his description at the time of his enlistment, viz: ⁸ ———. He makes this declaration for the purpose of obtaining the pension to which he may be entitled under sections 4736 to 4740, inclusive, Revised Statutes, and the act approved March 9, 1878, and hereby appoints ———, of ———, his lawful attorney, ——— to prosecute his claim. He also declares that he has heretofore made ——— application for⁹ ———, and that his residence is No. ——— street, city (or town) of ———, county of ———, and State of ———, and that his post-office address is ———.

[Signature of claimant.]

Attest:

Also personally appeared ———, aged ——— years, residing at No. ———, ——— street, in ———, and ———, aged ——— years, residing at No. ———, ——— street, in ———, persons whom I certify to be respectable and entitled to credit, and who, being by me duly sworn, say that they have known the said ——— for ——— years and ——— years, respectively; that they were present and saw him sign his name (or make his mark) to the foregoing declaration; that they have every reason to believe, from the appearance of said claimant and their acquaintance with him, that he is the identical person he represents himself to be; and they further say that they are able to identify him as the identical person who rendered the service alleged in the above application (in the company of Captain ———, in the regiment of ———, in the war of ———) by the following-named facts and circumstances, viz: ¹⁰ ———; and that they have no interest in the prosecution of this claim.

[Signatures of witnesses.]

² Here allege the name of the claimant again.

³ Here allege the exact name under which the service was rendered.

⁴ Here allege the rank under which the service was rendered.

⁵ Here state "enlisted," "volunteered," or "was drafted," as the case may be.

⁶ Here allege the number of days or months of service rendered by the claimant; fourteen days being the shortest period for which service pension is by law allowed, unless the claimant was actually engaged in a battle. If the claim is made for battle service, the blank should be so varied as to allege such service in addition to the allegation of term of service.

⁷ Here state all the places of residence; if in a city, giving the street and number, and from and to what dates he resided at each place.

⁸ Here let a full description follow, giving age, occupation, birth-place, height, color of hair, eyes, and complexion, and any other particulars as to description.

⁹ If any application for bounty-land or pension has previously been made, state the facts here, giving the date and number if possible, and designating whether it was a claim for bounty-land or pension, and whether a warrant for the land or a certificate for the pension was ever issued.

¹⁰ Here name all the facts and circumstances which enable the witnesses to swear that they know the applicant to be the identical person who rendered the service alleged.

If the applicant was a regimental or staff officer, or served in the Navy, the declaration must be varied, according to the facts of the case.

If the claimant was discharged in consequence of disability incurred by the service, or if he was in captivity with the enemy, he must vary his declaration so as to set forth the facts of the case.

All services rendered by the soldier in the war for which claim is made, or in any other war, with the names of officers in each service, must be given in the application.

If the service was rendered as a substitute, the name of the principal, for whom the substitute served, should be stated.

SERVICE PENSIONS, WAR OF 1812—Continued.

Sworn to and subscribed before me this — day of —, A. D. 18—; and I hereby certify that the contents of the above declaration, &c., were fully made known [L. s.] and explained to the applicant and witnesses before swearing, including the words — erased, and the words — added; and that I have no interest, direct or indirect, in the prosecution of this claim.

_____,
_____,
[Official character.]

Declaration of widow for service pension.

STATE OF —, COUNTY OF —, ss:

On this — day of —, A. D. one thousand eight hundred and —, personally appeared before me, —, the same being a court of record within and for the county and State aforesaid,¹ —, aged — years, a resident of —, in the State of —, who, being duly sworn according to law, declares that she is the widow of² —, deceased, who was the identical³ — who served under the name of⁴ — as a⁵ — in the company commanded by Captain —, in the — regiment of —, commanded by —, in the war of 1812; that her said husband⁶ — at — on or about the — day of —, A. D. —, for the term of —, and continued in actual service in said war for the term of⁷ —, and whose services terminated by reason of⁸ —, at —, on the — day of —, A. D. —. She further states that the following is a full description of her said husband at the time of his enlistment, viz:⁹ —. She further states that she was married to the said — at the city (or town) of —, in the county of —, and in the State of —, on the — day of —, A. D. —, by one¹⁰ —, who was a¹¹ —; and that her name before her said marriage was —; and she further states that¹² —, and that her said husband¹³ —, died at —, in the State of —, on the — day of —, A. D. —, and that she has not again married; and she further declares that the following have been the places of residence of herself and her said husband since the date of his discharge from the Army, viz:¹⁴ —. She makes this declaration for the purpose of obtaining the pension to which she may be entitled under sections

¹ Here allege full name of applicant.

² Here allege full name of soldier.

³ Here allege again the name of soldier.

⁴ Here allege the name under which the soldier served.

⁵ Here allege the rank under which the soldier served.

⁶ Here state "enlisted," "volunteered," or "was drafted," as the case may be.

⁷ Here state the number of days or months of service rendered by the soldier; fourteen days being the shortest period for which service pension is by law allowed, unless the soldier was actually engaged in a battle. If the claim is made for battle service the blank should be so varied as to allege such service in addition to the allegation of term of service.

⁸ Here insert the words "an honorable discharge," or "death," as the case may be.

⁹ Here let a full description of soldier follow, giving age, occupation, birth-place, height, color of hair, eyes, and complexion, and any other particulars as to description.

¹⁰ Here allege the name of the person who performed the marriage ceremony.

¹¹ Here state the official character of the person who performed the ceremony, i. e., whether a minister of the gospel or a justice of the peace, &c.

¹² Here state whether the claimant or her husband (the soldier) had been previously married; and if either had, the name of the former husband or wife should be stated; and the date and place of the death of, or divorce from, the former consort should be alleged.

¹³ Here insert the name of the husband on account of whose service and death the claim is made.

¹⁴ Here state all the places of residence; if in a city, giving the street and number; and from and to what dates he resided at each place.

SERVICE PENSIONS, WAR OF 1812—Continued.

4736 to 4740, inclusive, Revised Statutes, and the act of March 9, 1878, and hereby appoints _____, of _____, her true and lawful attorney, to prosecute her claim; and she further declares that she has heretofore made _____ application for¹⁵ _____, and that her residence is No. — street, city (or town) of _____, county of _____, State of _____, and that her post-office address is _____.

[Signature of the claimant.]

Attest:

Also personally appeared _____, aged _____ years, residing at No. — street, in _____, and _____, aged _____ years, residing at No. — street, in _____, persons whom I certify to be respectable and entitled to credit, and who, being by me duly sworn, say that they have known the said _____ for _____ years and for _____ years, respectively; that they were present and saw her sign her name (or make her mark) to the foregoing declaration; that they have every reason to believe, from the appearance of said claimant and their acquaintance with her that she is the identical person she represents herself to be; and they further say that they are able to identify her as the person who was the wife of the identical¹⁶ _____ who rendered the service alleged in the above application (in the company of Captain _____, in the regiment of _____, in the war of _____) by the following-named facts and circumstances, viz:¹⁷ _____; and that they have no interest in the prosecution of this claim.

[Signatures of witnesses.]

Sworn to and subscribed before me this — day of _____, A. D. 18—; and I hereby certify that the contents of the above declaration, &c., were fully made known [L. S.] and explained to the applicant and witnesses before swearing, including the words _____ erased, and the words _____ added; and that I have no interest direct or indirect, in the prosecution of this claim.

[Official character.]

REGULATIONS.

The following persons are entitled to pension under the provisions of sections 4736, 4737, and 4738, Revised Statutes:

First. Officers, soldiers, and sailors who served for sixty days, who have never been pensioned for a disability incurred in the service of the

¹⁵If any application for bounty-land or pension has previously been made, state the fact here, giving the date, and number if possible, and the act of Congress under which the claim was made; and designating whether it was a claim for bounty-land or pension, and whether a warrant for the land or certificate for the pension was ever issued.

¹⁶Here insert the name of the soldier.

¹⁷Here name all the facts and circumstances which enable the witnesses to swear, from a personal knowledge, that the claimant is the widow of the identical person who rendered the service alleged in the claim.

All services rendered by the soldier in the war for which claim is made, or in any other war, with the names of officers in each service, must be given in the application.

If the service was rendered as a substitute, the name of the principal for whom the substitute served should be given.

SERVICE PENSIONS, WAR OF 1812—Continued.

United States. These will be entitled to full pension of \$8 per month from February 14, 1871.

Second. Officers, soldiers, and sailors who served for sixty days, but who are in receipt of a pension of less than \$8 per month, for disability incurred in the service of the United States, for the difference between the pension now received and \$8 per month.

Third. Widows of officers, soldiers, and sailors who served sixty days, who were married to the soldier prior to the treaty of peace which terminated said war (February 17, 1815), and who *have not since remarried*. These will be entitled to \$8 per month from February 14, 1871.

An honorable discharge in all cases is necessary.

The claimant's identity and loyalty must be proved by two witnesses, certified by the judicial officer to be respectable and credible, who are present and witness the signature of the declarant, and certify to his identity and loyalty under oath or affirmation.

In addition to those above enumerated, the following persons are entitled to pension at \$8 per month, from March 9, 1878, for services in said war, under the provision of the act approved on that date:

First. Officers, soldiers, and sailors who served for fourteen days, and who have never been pensioned for a disability incurred in the service of the United States.

Second. Officers, soldiers, and sailors who served for fourteen days, and are in receipt of a pension of less than \$8 per month for disability incurred in the service of the United States, for the difference between the pension now received and \$8 per month.

Third. Officers, soldiers, and sailors who were in any engagement.

Fourth. Widows, without regard to the date of their marriage, and who have not remarried, of the persons described in the preceding three clauses.

An honorable discharge is necessary, but proof of loyalty is not required in claims under the act of March 9, 1878.

Any application for pension on account of service in war of 1812, heretofore made under the act of Congress approved February 14, 1871, granting pensions, &c., or under sections 4736, 4737, 4738, Revised Statutes, now pending or which stands rejected, will be treated as filed under the amendatory act approved March 9, 1878, upon the claimant filing with the Commissioner of Pensions a statement, signed by him in the presence of two attesting witnesses, requesting that the claim may be adjusted under the act of March 9, 1878. In such cases new applications will not be required.

A new attorney will not be recognized to prosecute any such claim unless, after having filed a power of attorney therein, he shall be called upon to furnish further testimony to establish the claim.

Applications must be made before a court of record, or before some

SERVICE PENSIONS, WAR OF 1812—Continued.

officer thereof having custody of its seal, except where by reason of infirmity of age the claimant is unable to travel, in which case the declaration may be made before any officer authorized to administer oaths for general purposes. The infirmity must be sworn to by the claimant and certified to by the officer before whom the declaration is made. Applications for restoration to the rolls under the provisions of March 9, 1878, will be made in the usual form for restoration and executed as provided in such cases.

12. IDENTITY.**DECISIONS OF THE SECRETARY OF THE INTERIOR.**

- (1) Identity must be shown where service was rendered under an alias.

Schurz, C., Secretary. Apr. 26, 1880. B. L. Wt. No. 114,675-160-1855. Gador, Joseph, alias Brown, Joseph S., who served as Joseph Cadore. Vol. 7, p. 307.

- (2) The identity of the claimant with the soldier whose name is borne on the rolls must be established by positive evidence.

Teller, H. M., Secretary. May 11, 1883. No. 84,773. Thurston, William. O. W. and N. Vol. 3, p. 175.

13. INDIANS, WARS WITH, DURING THE WAR OF 1812.**RULING OF THE COMMISSIONER OF PENSIONS.**

RULING No. —. April 9, 1878.

The Creek Indians were allies of the British during the war of 1812. Consequently the troops who served against those Indians during the period of that war are entitled to pension under the acts of February 14, 1871, and March 9, 1878.

Ct. No. 21,843. O'Neill, Quince. O. W. and N. Vol. 1, p. 96.

See PARAGRAPH 25 THIS TITLE.

14. MARRIAGE.**Section 4738, Revised Statutes.**

The surviving widows of such persons as are embraced within the provisions of the two preceding sections shall be allowed, on the conditions and limitations therein expressed, the same pension that such persons themselves would have been entitled to receive thereunder if living on the fourteenth day of February, eighteen hundred and seventy-one: *Provided, however,* Such widows were married to the husbands, on account of whose services the pension is claimed, prior to the treaty of peace which terminated the war of eighteen hundred and twelve, and have not remarried.

Sec. 1, 14 Feb., 1871; see act 9 Mar., 1878.

(For further law see paragraph 28 this title.)

SERVICE PENSIONS, WAR OF 1812—Continued.**DECISIONS OF THE SECRETARY OF THE INTERIOR.**

(1) Parol testimony is insufficient to show marriage prior to February 17, 1815, in order to give title under act of February 14, 1871.

Schurz, C., Secretary. Apr. 8, 1878. Ctf. No. 28,893 Collins, Rebecca. O. W. and N. Vol. 1, p. 98.

(2) Proof of marriage prior to February 17, 1815, is essential in claims under act of February 14, 1871.

Schurz, C., Secretary. June 16, 1879. Ctf. No. 11,087. Hopkins, Mary C. O. W. and N. Vol. 2, p. 127.

RULING OF THE COMMISSIONER OF PENSIONS.

RULING No. —. December 16, 1884.

Claimant separated from her first husband in 1846, and supposing him dead, married the soldier in 1851 and cohabited with him as his wife until his death, in 1877. The first husband died in 1858. Both marriages were entered into in the State of New York, under whose laws the second marriage was valid *prima facie*: *Held*, that where the parties lived together with the mutual desire that their relations should be that of marriage, before and after the removal of the impediment thereto, said relation should be regarded as marriage after the removal of such impediment.

Ctf. No. 33,917. Hiscox, Emma E. O. W. and N. Vol. 3, p. 300.

See also MARRIAGE AND PARAGRAPH 19 THIS TITLE.

15. OATH OF ALLEGIANCE.

See PARAGRAPH 4 THIS TITLE.

16. PRIMA FACIE TITLE BASED ON GRANT OF LAND WARRANT.
(For law see paragraph 10 this title.)

DECISIONS OF THE SECRETARY OF THE INTERIOR.

(1) May be rebutted by additional evidence showing that the land warrant was improperly allowed.

Schurz, C., Secretary. Feb. 3, 1879. No. 12,843. Moore, Catharine. O. W. and N. Vol. 2, p. 71.

Schurz, C., Secretary. Apr. 19, 1879. No. 19,005. Peebles, Dorothy. O. W. and N. Vol. 2, p. 91.

Kirkwood, S. J., Secretary. May 7, 1881. Ctf. No. 13,249. Broad, Sophia. O. W. and N. Vol. 2, p. 348. *See also* Schurz, C., Secretary. June 6, 1878. No. 30,821. Jordan, Daniel. O. W. and N. Vol. 1, p. 106.

(2) Rebutted by fact of allowance for less than fourteen days' service at invasion of Plattsburg (if not actually engaged in battle).

Schurz, C., Secretary. Sept. 3 1878. No. 12,535. Goodrich, Phebe. O. W. and N. Vol. 2, p. 15.

Schurz, C., Secretary. Oct. 3, 1878. No. 29,900. Rouse, Erastus S. S. O. W. and N. Vol. 2, p. 29.

Schurz, C., Secretary. Oct. 9, 1878. No. 31,177. Dimick, Alanson. O. W. and N. Vol. 2, p. 34.

Schurz, C., Secretary. Nov. 26, 1878. No. 31,553. Hall, Asbury. O. W. and N. Vol. 2, p. 45.

Schurz, C., Secretary. Apr. 12, 1879. No. 30,213. Owen, Harriet M. O. W. and N. Vol. 2, p. 103.

SERVICE PENSIONS, WAR OF 1812—Continued.

(3) No title where the land warrant was allowed on parol evidence of service in a company not of record. Land warrant was improperly allowed. Reversed. See (6) this paragraph.

Schurz, C., Secretary. Oct. 16, 1878. No. 33,432. Wilton, Harrison. O. W. and N. Vol. 2, p. 36.
Schurz, C., Secretary. Dec. 14, 1878. Ctf. No. 26,329. Culver, Rebecca. O. W. and N. Vol. 2, p. 57.

(4) No title if the allowance of the land warrant on parol testimony of service in a company not of record was contrary to the rules established for the adjudication of bounty-land claims.

Schurz, C., Secretary. Nov. 29, 1878. No. 19,005. Hill, Barney S. O. W. and N. Vol. 2, p. 47.
Schurz, C., Secretary. Dec. 17, 1878. No. 23,107. Larrabee, John. O. W. and N. Vol. 2, p. 58.

(5) Prima facie title conclusive unless rebutted.

Schurz, C., Secretary. June 21, 1879. Ctf. No. 25,671. Bryan, Callista G. O. W. and N. Vol. 2, p. 126.
Schurz, C., Secretary. Nov. 10, 1879. Ctf. No. 28,618. Brainerd, Elizabeth W. Vol. 7, p. 55.
O. W. and N. Vol. 2, p. 199. See also Schurz, C., Secretary. Jan. 17, 1879. Ctf. No. 24,995.
Hupp, George F. O. W. and N. Vol. 2, p. 76.

(6) Prima facie title is conclusive unless rebutted, even though there be no record of the organization in which the service is alleged to have been rendered.

Schurz, C., Secretary. Mar. 31, 1879. Ctf. No. 25,084. Barber, Israel. O. W. and N. Vol. 2, p. 83.
Schurz, C., Secretary. June 27, 1879. Ctf. No. 26,186. Curry, Mary R. Vol. 6, p. 383. O. W. and N. Vol. 2, p. 143.
Schurz, C., Secretary. June 30, 1879. Ctf. No. 26,329. Culver, Rebecca. O. W. and N. Vol. 2, p. 151.
Joslyn, M. L., Acting Secretary. Oct. 25, 1884. Ctf. No. 33,893. Mayo, Emily. O. W. and N. Vol. 3, p. 291.

(7) Prima facie title may be rebutted by newly discovered evidence showing different name on the rolls and different signature to the receipt roll.

Schurz, C., Secretary. Dec. 5, 1879. No. 28,497. Delaplaine, Lucinda. Vol. 7, p. 97. O. W. and N. Vol. 2, p. 205.

(8) Prima facie title to the principal may be rebutted by evidence from the record that the substitute rendered the entire service and was paid for the same.

Schurz, C., Secretary. Dec. 19, 1879. No. 19,839. Lewis, Elizabeth M. Vol. 7, p. 130. Re-affirmed. Kirkwood, S. J., Secretary. Oct. 22, 1881. O. W. and N. Vol. 2, p. 212.

(9) Allowance of land warrant to a teamster under act of March 3, 1855, does not constitute a prima facie title to pension under act of March 9, 1878.

Schurz, C., Secretary. Feb. 17, 1880. No. 26,501. Scully, Mary. Vol. 7, p. 219. O. W. and N. Vol. 2, p. 243.

(10) Prima facie title is good if the service on which the land warrant was allowed was made up of service before, and service or travel after, February 17, 1815.

Schurz, C., Secretary. Mar. 24, 1880. Ctf. No. 25,409. Abernathy, James R. Vol. 7, p. 263.
O. W. and N. Vol. 2, p. 266.

SERVICE PENSIONS, WAR OF 1812—Continued.

(11) *Prima facie* title of substitute, to whom land warrant had been issued on parol evidence of service, is not rebutted by fact of allowance of land warrant to principal, whose name was found on rolls, but against the satisfaction of whose warrant the office at the time filed a caveat. The question of title between the contestants was settled in favor of the substitute upon the evidence before the office in the land claims.

Schurz, C., Secretary. May 7, 1880. Ctf. No. 29,697. Fox, Betsy A. Vol. 7, p. 327. O. W. and N. Vol. 2, p. 288.

(12) *Prima facie* title may be rebutted by a new report from the rolls showing that the warrant was improperly granted.

Schurz, C., Secretary. June 5, 1880. No. 30,123. Aiken, Nathaniel. Vol. 7, p. 384. O. W. and N. Vol. 2, p. 312.

RULINGS OF THE COMMISSIONER OF PENSIONS.**RULING No. 19. June 6, 1871.**

In all cases where the applicant for pension under act of February 14, 1871, received a bounty-land warrant, testimony which this office accepted as proof in the settlement of the claim for said warrant will be taken as conclusive upon the same points presented in the case: *Provided*, There be no suspicion that such evidence was fraudulently procured or erroneously applied in the bounty-land case.

RULING No. —. October 21, 1885.

I. The Pension Office having issued both a bounty-land warrant and a pension certificate to a soldier of the war of 1812 during his life-time, it would be a great hardship at this late date to require the widow of that soldier to re-establish the fact of service already definitely determined by competent authority. The pension should be allowed to the widow.

II. Where only the *prima facie* case made by the statutes—by the issuance of a bounty-land warrant—exists, and the matter of pension has never been adjudicated, the case is then of first impression, so far as claim for pension is concerned. The evidence showing that the soldier was not in the service for fourteen days during the war of 1812, and the preponderance of evidence indicating that he was not in any engagement, the *prima facie* case created in the statute is overcome.

See Ctf. No. 34,114. Doane, Esther, *et al.* Rej. No. 43,881. Laura A. Snow, and other claims.

See also PARAGRAPH 45 BOUNTY-LAND.

17. RATE.**Section 4737, Revised Statutes.**

Pensions, under the preceding section, shall be at the rate of eight dollars per month, and shall be paid to the persons entitled thereto for the term of their lives from and after the fourteenth day of February,

SERVICE PENSIONERS WAR OF 1812—Continued.

any person who is receiving a pension shall not apply to any person who is receiving a pension of the same or higher grade or more pay than he is entitled to receive, and if he does so, he shall be liable to a fine of \$500, and to imprisonment for six months, and to the payment of the costs of the proceedings.

See also *Act of Congress approved March 3, 1878.*

Act of Congress approved March 3, 1878.

SEC. 2. That the act of March 3, 1878, relating to any person who is receiving a pension at the rate of \$5 per month, shall not apply to any person receiving a pension of less than \$5 per month, and to the difference between the pension now received and \$5 per month, and \$5 per month. Pensioners of less than \$5 per month, except as herein provided, shall be entitled to the same as those persons entitled thereto, from and after the passage of this act and during their natural lives: *Provided*, That the pension as to widows provided for in this act shall cease when they shall marry again.

18. ROLLS AND RECORDS OF THE ARMY AND NAVY, WAR OF 1812, WHERE FOUND.

See ARMY AND NAVY ROLLS AND RECORDS, WHERE FOUND.

19. REMARRIAGE.**Act of Congress approved March 9, 1878.**

SEC. 2. * * * *Provided*, That the pensions to widows provided for in this act shall cease when they shall marry again.

(For further law see paragraph 14 this title.)

DECISIONS OF THE SECRETARY OF THE INTERIOR.

(1) The remarriage of a widow of a soldier of the war of 1812 forfeits her right to pension, although she again becomes a widow.

Schurz, C., Secretary. Dec. 12, 1878. No. 14,940. Lilliston, Elizabeth, former widow of Hickman, Asa. Vol. 6, p. 188. O. W. and N. Vol. 2, p. 55.

Schurz, C., Secretary. Jan. 14, 1879. No. 24,574. Hartwell, Mary, former widow of Voorhees, John. O. W. and N. Vol. 2, p. 69.

Schurz, C., Secretary. Apr. 19, 1879. No. 29,191. Anderson, Eliza, former widow of Parker, Samuel. O. W. and N. Vol. 2, p. 100.

(2) The soldier abandoned his wife, who, eight years after, supposing him dead, married again. The soldier returned and she renewed marital relations with him: *Held*, that the second marriage being legal under the *lex loci* (State of New York) and not having been declared void by decree of court during the soldier's life-time, she is not entitled as his widow.

Schurz, C., Secretary. Oct. 22, 1879. No. 27,986. Williams, Susan. Vol. 7, p. 32.

See also REMARRIAGE AND ADULTEROUS COHABITATION.

SERVICE PENSIONS, WAR OF 1812—Continued.**20. REVOLUTIONARY WIDOWS.***See* PARAGRAPH 28 THIS TITLE.**21. SERVICE IN WAR REQUIRED.***(For law see paragraph 28 this title.)***DECISIONS OF THE SECRETARY OF THE INTERIOR.**

(1) Service must have been performed subsequent to June 18, 1812, and prior to February 17, 1815. See (10) paragraph 16 this title.

Delano, C., Secretary. Mar. 27, 1872. No. 17,372. De Peyster, William. Vol. 1, p. 187.

(2) Where only part of the required period of service was rendered before February 17, 1815, and the remainder after that date, no title. See (10) paragraph 16, this title.

Schurz, C., Secretary. Dec. 10, 1877. Ctf. No. 28,726. Chance, Elizabeth. Vol. 5, p. 277.

Bell, A., Acting Secretary. Aug. 21, 1878. No. 29,711. Caldwell, Joseph F. O. W. and N. Vol. 2, p. 3.

(3) Service must have been rendered prior to the date of the treaty of peace, February 17, 1815. See (10) paragraph 16 this title.

Schurz, C., Secretary. June 26, 1878. No. 11,842. Sama, Mary. Vol. 6, p. 8. O. W. and N. Vol. 1, p. 114.

Reaffirmed with opinion of Attorney-General. Schurz, C., Secretary. Sept. 26, 1878. O. W. and N. Vol. 2, p. 20.

(4) Service must have been rendered subsequent to June 18, 1812.

Schurz, C., Secretary. Aug. 17, 1880. Ctf. No. 20,808. Flint, Prudence M. Vol. 7, p. 458. O. W. and N. Vol. 2, p. 321.

RULING OF THE COMMISSIONER OF PENSIONS.

RULING No. 62. August 2, 1871.

In computing the term of service of soldiers of the war of 1812, claiming pension under the act of February 14, 1871, and where the period served began prior to the treaty of peace, February 17, 1815, and extended beyond that date, service rendered subsequent to February 17 will be included in the estimate of the number of days served, and the soldier credited therewith.

See also PARAGRAPH 104 BOUNTY-LAND.

22. SERVICE, PERIOD OF.*(For law see paragraph 28 this title.)***DECISIONS OF THE SECRETARY OF THE INTERIOR.**

(1) Pension allowed under act of February 14, 1871. Subsequently discovered that less than sixty days' service was rendered: *Held*, that name should be dropped under act of February 14, 1871, and allowance made under act of March 9, 1878.

Schurz, C., Secretary. Jan. 21, 1880. Ctf. No. 5,616. Riley, Nancy. Vol. 7, p. 178. O. W. and N. Vol. 2, p. 224.

SERVICE PENSIONS, WAR OF 1812—Continued.

(2) The period for which the soldier was paid determines the length of service.

Joelyn, M. L., Acting Secretary. Apr. 14, 1884. No. 42,910. Hundley, Winnie. Vol. 11, p. 193.

See also PARAGRAPH 106 BOUNTY LAND; *also* PARAGRAPH 10 AND 16 THIS TITLE.

23. SERVICE RECORD, OF.**DECISIONS OF THE SECRETARY OF THE INTERIOR.**

(1) Cannot be controverted by parol evidence.

Schurz, C., Secretary. Sept. 19, 1878. No. 2,668. Martin, Betsey. O. W. and N. Vol. 2, p. 14.

Delano, C., Secretary. July 10, 1874. No. 28,204. Ash, Moses. Vol. 3, p. 268.

(2) Cannot be controverted by the certificate of the adjutant-general of a State.*

Delano, C., Secretary. Mar. 14, 1873. No. 2,185. Bacon, Isaac. Vol. 1, p. 323.

(3) Cannot be controverted by the certificate of a State auditor.*

Delano, C., Secretary. July 10, 1874. No. 2,790. Hanaford, John. Vol. 3, p. 269.

(4) Cannot be controverted by parol evidence as to travel, when the record shows that mileage was allowed.

Schurz, C., Secretary. Mar. 4, 1880. No. 27,803. Young, Rosa. Vol. 7, p. 244.

24. SERVICE RECORD OF COMPANY NECESSARY.**DECISIONS OF THE SECRETARY OF THE INTERIOR.**

(1) Before parol evidence can be accepted to show individual service.

Chandler, Z., Secretary. Nov. 24, 1875. B. L. App. No. 331,486. Varian, Francois. Vol. 4, p. 154. O. W. and N. Vol. 1, p. 31.

Schurz, C., Secretary. Sept. 3, 1878. No. 12,535. Goodrich, Phebe. O. W. and N. Vol. 2, p. 15.

See (3), (4), and (6), PARAGRAPH 16 THIS TITLE.

(2) Historical evidence of service may be accepted where no record of company is found in any Department.

Schurz, C., Secretary. Apr. 19, 1879. Ctf. No. 25,110. Dudley, Edmond. Vol. 6, p. 305. O. W. and N. Vol. 2, p. 98.

See (3) (4), and (6) PARAGRAPH 16 THIS TITLE.

RULING OF THE COMMISSIONER OF PENSIONS.

RULING No. —. *January 6, 1879.*

Parol testimony can be accepted to establish the service of a member of the regimental band where there is a record of the regiment.

Ctf. No. 24,889. McDonald, John. O. W. and N. Vol. 2, p. 18.

See (3), (4), and (6) PARAGRAPH 16 THIS TITLE; *also* PARAGRAPH 105 BOUNTY-LAND.

25. SIX NATIONS, SENECA INDIANS.**DECISIONS OF THE SECRETARY OF THE INTERIOR.**

(1) Seneca Indians are not entitled. Reversed. *See next.*

Delano, C., Secretary. July 1, 1875. Ctf. No. 8,695. Black Squirrel. Vol. 4, p. 85.

* The records of the States of Massachusetts and Maine for War of 1812 are simply copies, made from records of the General Government on file in the office of the Third Auditor, United States Treasury.

SERVICE PENSIONS, WAR OF 1812—Continued.

(2) Warriors of the Six Nations who were in the service of the United States were enlisted men and are entitled to pension.

Schurz, Secretary. July 26, 1879. No. 13,114. Jimison, Isaac. Vol. 6, p. 415. O. W. and N. Vol. 2, p. 173.

Bell, A., Acting Secretary. July 28, 1879. Ctf. No. 25,594. Jacobs, Thomas. Ctf. No. 33,241. Pattison, William. Ctf. No. 22,410. Titus, John. O. W. and N. Vol. 2, p. 172.

26. SOLDIERS' HOME.**DECISION OF THE SECRETARY OF THE INTERIOR.**

(1) Is not entitled to receive the pensions of inmates who are 1812 service pensioners.

Cowen, B. R., Acting Secretary. Oct. 6, 1874. Ctf. No. 3,845. Mortimer, William. Vol. 3, p. 324.

See SOLDIERS' HOMES.

27. STATE TROOPS, SERVICE BY.**DECISION OF THE SECRETARY OF THE INTERIOR.**

(1) Troops in the service of a State during the war of 1812 who were not mustered into the service of the United States, and for whose services the State was not reimbursed by the United States are not entitled to pension.

Schurz, C., Secretary. Aug. 8, 1877. No. 833. Smith, Rebecca S. O. W. and N. Vol. 1, p. 36.

See PARAGRAPH 75 BOUNTY-LAND.

28. TITLE.**Section 4736, Revised Statutes.**

The Secretary of the Interior is directed to place on the pension-roll the names of the surviving officers and enlisted and drafted men, including militia and volunteers, of the military and naval service of the United States, who served sixty days in the war with Great Britain, of eighteen hundred and twelve, and were honorably discharged, and such other officers and soldiers as may have been personally named in any resolution of Congress for any specific service in that war, although their term of service may have been less than sixty days, subject, however, to the provisions of section forty-seven hundred and sixteen.

Sec. 1, 14 Feb., 1871; see act 9 Mar., 1878.

Section 4738, Revised Statutes.

The surviving widows of such persons as are embraced within the provisions of the two preceding sections shall be allowed, on the conditions and limitations therein expressed, the same pension that such persons themselves would have been entitled to receive thereunder if living on the fourteenth day of February, eighteen hundred and seventy-one: *Provided, however,* Such widows were married to the husbands, on account of whose services the pension is claimed, prior to the treaty of

SERVICE PENSIONS, WAR OF 1812—Continued.

peace which terminated the war of eighteen hundred and twelve, and have not remarried.

Sec. 1, 14 Feb., 1871; see act 9 Mar., 1878.

Act of Congress approved March 9, 1878.

AN ACT amending the laws granting pensions to the soldiers and sailors of the war of eighteen hundred and twelve, and their widows, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the names of the surviving officers and enlisted and drafted men, without regard to color, including militia and volunteers, of the military and naval service of the United States who served for fourteen days in the war with Great Britain of 1812, or who were in any engagement and were honorably discharged, and the surviving widows of such officers and enlisted and drafted men.

See secs. 4736 to 4740, inclusive, R. S.

SEC. 6. * * * *And provided further,* That under this act any widow of a Revolutionary soldier who served for fourteen days or was in any engagement shall be placed on the pension-rolls of the United States and receive a pension at the rate of \$8 per month.

SEC. 7. That all laws and clauses of laws in conflict with this act be, and they are hereby, repealed.

29. WAIVER.**DECISION OF THE SECRETARY OF THE INTERIOR.**

(1) Waiver of rights under the act of February 14, 1871, by a claimant under that act, subsequently claiming under act of March 9, 1878, is not required, and would not bar the prosecution of his claim under the act of 1871.

Schurz, C., Secretary. May 10, 1878. No. 13,031. Coley, John. O. W. and N. Vol. 1, p. 104. [The waiver referred to was a requirement of an office circular issued soon after the passage of the act of March 9, 1878, and was required as evidence of identity, continued widowhood, &c., as well as a waiver of rights under former act.]

SIOUX INDIAN MASSACRE AT NEW ULM, MINN., AUGUST 23, 1862.**DECISION OF THE SECRETARY OF THE INTERIOR.**

Volunteers or militia, not regularly mustered into the service of the United States, although not under the orders of a United States officer, or serving with any regularly organized military force of the United States, who have rendered service in any engagement with rebels against the United States, or with Indians at war with the United States, and so recognized by the authorities of the United States at the time

SIoux INDIAN MASSACRE—Continued.

of the engagement, are entitled to pension under paragraph 3, section 4693, Revised Statutes.

Chandler, Z. Secretary. May 27, 1876. Ctf. No. 173,889. Luskey, Johanna. Vol. 4, p. 306.

[NOTE.—This decision was rendered with reference to the militia of Brown County, Minnesota, called out by the authorities of that State at the time of the outbreak of the Sioux Indians. United States troops had been ordered to repel the attack, but had not arrived when the action took place at New Ulm, August 23, 1862, and no United States officers were present. This decision reversed a decision of Secretary Cox (J. D.), in same case, dated October 21, 1870, and one of Secretary Columbus Delano in case of the minors of Max Haack, certificate No. 205,934, May 27, 1871, vol. 1, p. 105. It was substantially reversed by decision of Secretary Carl Schurz, in case of Jacob Nix, certificate No. 216,943, August 7, 1877, vol. 5, p. 170, and was finally reaffirmed by decision of Secretary H. M. Teller, in case of Max Haack, above referred to, March 4, 1884, vol. 11, p. 143. All claims of this class are now subject to the limitation imposed by paragraph 3, section 4693, Revised Statutes, and, *unless completed prior to July 4, 1874, must be rejected.*]

RULING OF THE COMMISSIONER OF PENSIONS.

RULING No. 63. May 17, 1876.

The words "or who otherwise volunteered and rendered service in any engagement with rebels or Indians," in paragraph 3 of section 4693, Revised Statutes, are construed to include only persons who rendered service to the General Government.

Persons rendering service simply to the local inhabitants or authorities, municipal or State, are not included.

SIX NATIONS (INDIANS), WAR OF 1812.

See SERVICE PENSIONS, WAR OF 1812, par. 25.

SOLDIERS' HOMES.

Section 2, act of February 26, 1881.

"All pensions payable, or to be paid under this act, to pensioners who are inmates of the National Home for Disabled Volunteer Soldiers, shall be paid to the treasurer or treasurers of said home, upon receipt given to the satisfaction of the managers to be disbursed for the benefit of the pensioners without deduction for fines or penalties under regulations to be established by the managers of the home; said payment to be made by the pension agent upon a certificate of the proper officer of the home that the pensioner is an inmate thereof, and is still living. Any balance of the pension which may remain at the date of the pensioner's discharge shall be paid over to him; and in case of his death at the home, the same shall be paid to his widow, or children, or in default of either to his legal representatives."

See act 7 Aug., 1882.

Act of August 7, 1882, provides:

"That all pensions and arrears of pensions payable to or to be paid to pensioners who are or may become inmates of the National Home for Disabled Volunteer Soldiers shall be paid to the treasurers of said home,

SOLDIERS' HOMES—Continued.

to be applied by such treasurers provided by law, under the rules and regulations of said home. Said payment shall be made by the pension agent upon a certificate of the proper officer of the home that the pensioner is an inmate thereof on the day to which said pension is drawn. The treasurers of said home, respectively, shall give security, to the satisfaction of the managers of said home, for the payment and application by them of all arrears of pension and pension-moneys they may receive under the aforesaid provision. And section two of the act entitled 'An act making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June thirtieth, eighteen hundred and eighty-two, and for deficiencies and for other purposes,' approved February twenty-sixth, eighteen hundred and eighty-one, is hereby revived and continued in force."

See act 26 Feb., 1881.

Section 4, act of March 3, 1883, prescribing regulations for the Soldiers' Home, located at Washington, D. C., provides—

"That any inmate of the Home who is receiving a pension from the Government and who has a child, wife, or parent living, shall be entitled, by filing with the pension agent from whom he receives his money, a written direction to that effect, to have his pension, or any part of it, paid to such child, wife, or parent. The pensions of all who now are or shall hereafter become inmates of the Home, except such as shall be assigned as aforesaid, shall be paid to the treasurer of the Home. The money thus derived shall not become a part of the funds of the Home, but shall be held by the treasurer in trust for the pensioner to whom it would otherwise have been paid, and such part of it as shall not sooner have been paid to him shall be paid to him on his discharge from the institution. The board of commissioners may from time to time pay over to any inmate such part of his pension-money as they think best for his interest and consistent with the discipline and good order of the Home, but such pensioner shall not be entitled to demand or have the same so long as he remains an inmate of the Home. In case of the death of any pensioner, any pension-money due him and remaining in the hands of the treasurer shall be paid to his legal heirs, if demand is made within three years; otherwise the same shall escheat to the Home."

An act making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1883, provides—

"That, in addition to the persons now entitled to admission to said hospital" (the Government Hospital for the Insane), "any inmate of the National Home for Disabled Volunteer Soldiers who is now or may hereafter become insane, shall, upon an order of the president of the board of managers of said National Home, be admitted to said hospital and treated therein; and if any inmate so admitted from said National Home is or thereafter becomes a pensioner, and has neither wife, minor child,

SOLDIERS' HOMES—Continued.

nor parent dependent on him in whole or in part for support, his arrears and his pension-money accruing during the period he shall remain in said hospital shall be applied to his support in said hospital, and be paid over to the proper officer of said institution for the general uses thereof."

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. Soldier's Home not entitled to the pension of inmates who are pensioned for service only in the war of 1812.

Mortimer, Wm. Delano, C., Secretary. Oct. 6, 1874. Vol. 3, p. 324.

2. Pensioners who are inmates of National Military Homes are subject to the regulations governing the same, and desertion therefrom does not relieve them from their obligations thereto so far as their pensions are concerned. Their pension certificates should remain in the possession of the commandant of the Home until said pensioners are properly discharged therefrom.

McFarland, G. Ctf. No. 37,242. Chandler, Z., Secretary. Mar. 3, 1876. Vol. 4, p. 220.

3. Soldiers' homes not authorized to collect arrears due a pensioner under act of January 25, 1879, on assignment or otherwise.

Opinion of Attorney-General. Aug. 19, 1879. Vol. 7, p. 42. (Secretary's decisions.)

4. While a pensioner is an inmate of the Soldiers' National Home his pension will be paid to the treasurer of that institution.

Woodworth, Milton L. Ctf. No. 186,896. Kirkwood, S. J., Secretary. May 5, 1881, and July 12, 1881. Vol. 8, pp. 220, 344.

SOUNDNESS.**Act of March 3, 1885.**

* * * * *

"*Provided*, That all applicants for pensions shall be presumed to have had no disability at the time of enlistment; but such presumption may be rebutted."

* * * * *

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. A claimant's statement as to soundness in an application for life insurance is not a bar to pension, provided the disability for which his pension was granted still continues.

Sanderson, John W. Ctf. No. 1,959. Cowen, B. R., Acting Secretary. Nov. 4, 1875. Vol. 4, p. 141.

2. "The fact that a person was accepted into the military service is, under ordinary circumstances, presumptive evidence that he was in sound health. It has been *held*, however, by the Department, that when anything appears in the examination of a claim which tends to rebut

SOUNDNESS—Continued.

such presumption, the facts of the case should be proved. It does not appear proper that the established practice in this respect should be disturbed."

Bordine, Benj. M. No. 243,695. Teller, H. M., Secretary. Sept. 22, 1882. Vol. 9, p. 365.

In approving and commending Order No. 74 as "both just and liberal to the soldier," the honorable Secretary of the Interior, after quoting the same, uses the following language, viz:

"This rule is both just and liberal to the soldier, and it should receive a liberal construction and be liberally carried out. Beyond this the Government cannot be expected to go. It is not believed that proof of soundness at the time of capture, and disability at the time of release from prison, is in all cases sufficient to establish a claimant's right to pension. To give it its broadest construction, such proof only raises a presumption that the disability originated in the service and in the line of duty, that the Pension Office may act upon such presumption and admit the claim without further evidence.

"It cannot be doubted that if the facts disclosed in the evidence are sufficient to raise a doubt in regard to the validity of the claim, the Commissioner may require further proof of the origin of the disability, and if such proof is not furnished it is his duty to reject the claim."

Fenner, William A. No. 196,783. Teller, H. M., Secretary. Mar. 8, 1883. Vol. 10, p. 149.

Leavitt, Edwin A. No. 410,724. Joslyn, M. L., Acting Secretary. July 26, 1884. Vol. 11, p. 315.

3. "It is not to be presumed that the soldier was a sound man because he was accepted into the service; but the service and disability being proved, it does not require much evidence to establish soundness at the time of enlistment. * * * It does not require as much evidence to establish that fact (of prior soundness) as it does to establish the fact of disability."

Wells, David H. No. 240,567. Teller, H. M., Secretary. Feb. 23, 1884. Vol. 11, p. 164.

RULINGS OF THE COMMISSIONER OF PENSIONS.**RULING No. 55. October 9 1876.**

If the soldier claiming pension, or on whose account pension is claimed, shall have experienced active field service for a term of six successive months, without having been treated in a hospital subsequent to his enlistment, he shall be presumed to have been sound at time of enlistment, unless the nature of the disease on account of which pension is claimed is such that it cannot be attributed to his service.

RULING No. 91. April 16, 1885.

Claimant, in 1863, presented a surgeon's certificate of disability, in which he alleged as the reason for his resignation and discharge the existence of a disability with which he had been affected for years prior to entering the service. In 1879 he filed an application for pension for said disability, alleging that the same was incurred in the service and

SOUNDNESS—Continued.

line of duty. Thus it appears that after sixteen years exemption from military service under the recitals of the surgeon's certificate of disability, and after the passage of the arrears acts of January 25 and March 3, 1879, he seeks to controvert the statement contained in the said certificate: *Held*, that, under such circumstances, nothing but the most overwhelming proof creating an actual demonstration, and showing that the claimant had been imposed upon by his surgeon and by the officers who accepted his resignation, and that he has been ignorant through all these years of the recitals referred to, would be sufficient to entitle his claim to favorable consideration.

Norton, Augustus. App. No. 287,454.

SPECIAL ACTS.

See SECTION 4715, REVISED STATUTES, UNDER PENSIONS.

Section 4720, Revised Statutes.

When the rate, commencement, and duration of a pension allowed by special act are fixed by such act, they shall not be subject to be varied by the provisions and limitations of the general pension law; but when not thus fixed the rate and continuance of the pension shall be subject to variation in accordance with the general laws, and its commencement shall date from the passage of the special act, and the Commissioner of Pensions shall, upon satisfactory evidence that fraud was perpetrated in obtaining such special act, suspend payment thereupon until the propriety of repealing the same can be considered by Congress.

Sec. 27, 3 Mar., 1873; sec. 15, 27 July, 1868; sec. 1, 7 July, 1870.

Section 4720, Revised Statutes, amended by act of June 6, 1874, as follows:

*"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all persons entitled to pensions under special acts fixing the rate of such pensions, and now receiving or entitled to receive a less pension than that allowed by the general pension laws under like circumstances, are, in lieu of their present rate of pension, hereby declared to be entitled to the benefits and subject to the limitations of the general pension laws, entitled 'An act to revise, consolidate, and amend the laws relating to pensions,' approved March third, eighteen hundred and seventy-three; and that this act go into effect from and after its passage: *Provided*, That this act shall not be construed to reduce any pension granted by special act."*

Section 5 of act of July 25, 1882, provides:

"That no person who is now receiving or shall hereafter receive a pension under a special act shall be entitled to receive in addition thereto a pension under the general law, unless the special act expressly states

SPECIAL ACTS—Continued.

that the pension granted thereby is in addition to the pension which said person is entitled to receive under the general law."

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. A special act pension inures and commences only from the date of the passage of the act granting it which, in the absence of an express provision, should be construed to be prospective in its purpose and effect.

Taylor, Francis, widow of. App. No. 106,615 Harlan, James, Secretary. Apr. 11, 1867. Vol. 1, p. 54.

2. Formal application must be made for a pension granted by special act, in the same manner as if no such act had been passed.

Webster, Timothy widow of. Cox, J. D., Secretary. Apr. 5, 1870. Vol. 1, p. 80.

3. Pensions under special acts not affected by section 13, act of July 27, 1868.

(NOTE.—In cases where the special act does fix the rate of pension, the same is subject to variation under the laws in force when such pensions become due and payable. Act July 8, 1870.)

Instructions: Cox, J. D., Secretary. May 6, 1870. Vol. 2, p. 199.

4. Where beneficiary named in special act granting pension dies without having made formal application therefor no benefit can accrue to any one.

Bennett, George, widow of. App. No. 114,939. Cox, J. D., Secretary. Aug. 31, 1870. Vol. 2, p. 201.

5. Where a special act does not designate the date when the pension granted thereby shall commence, it cannot be made to begin prior to the passage of the act.

Winans, George W., mother of. Navy ctf. No. 224. Delano, C., Secretary. Jan. 11, 1872. Vol. 1, p. 137. Morgan, Peter K. Ctf. No. 25,458. Schurz, C., Secretary. Jan. 27, 1881. Vol. 8, p. 120. Rodden, Joseph B. Ctf. No. 103,010. Cowen, B. R., Acting Secretary. Nov. 3, 1875. Vol. 4, p. 139.

6. Pensions under special acts are governed by act of June 6, 1874, but not to be reduced.

Raferty, Patrick, minors of. Ctf. No. 157,188. Delano, C., Secretary. Oct. 12, 1874. Vol. 3, p. 322.

7. In a case where the act designates the relation of a person other than what the facts in the case show: *Held*, that the petition and report of committee is sufficient to guide its interpretation.

Thompson, Elizabeth, mother of Goodwin, Moses. Delano, C., Secretary. Nov. 18, 1874. Vol. 3, p. 354.

8. Attorneys allowed fee of \$10 only in special act cases.

Johnson, Edwin. Ctf. No. 129,642. Delano, C., Secretary. Nov. 19, 1874. Vol. 3, p. 356.

9. (1) The identity of beneficiaries under special acts is all that is necessary to be established before their names are placed on the pension-roll.

Hensley, Ann. Chandler, Z., Secretary. Apr. 7, 1876. Vol. 4, p. 253.

SPECIAL ACTS—Continued.

(2) Where the identity of a special act pensioner is sufficiently established by evidence on file in a pending claim for pension under the general law no new declaration need be required.

Burk, Harvey. Schurz, C., Secretary. Dec. 10, 1880. Vol. 8, p. 67.

10. Remarriage of widow prior to passage of special act for her benefit should be reported to Congress, and payment of pension withheld a reasonable time pending Congressional action.

Mary H., former widow of Bartlett, E. W. App. No. 87,149. Chandler, Z., Secretary. Apr. 7, 1876. Vol. 4, p. 355.

AN ACT granting pension to L. Adelia Foster.

11. *Be it enacted by the Senate and House of Representatives of the United States in Congress assembled*, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of L. Adelia Foster, widow of George Foster, late acting major of the Sixty-seventh New York Volunteers, and to pay her a pension as the widow of a major in lieu of the pension as the widow of a captain which she is now receiving.

Approved June 10, 1872.

The pensions granted to widows by special acts of Congress cannot be extended to their minor children in case of their death, unless provision for such extension is made in the act.

Foster, George and L. Adelia, minors of. Ctf. No. 171,129. Chadler, Z., Secretary. June 3, 1876. Vol. 4, p. 171.

12. Rates fixed by special acts cannot be varied under the general law.

Mills, Austin R. Schurz, C., Secretary. May 17, 1877. Vol. 5, p. 111.

Hedrick, Hiram. Delano, C., Secretary. Feb. 17, 1873. Vol. 1, p. 283.

Dulaney, Jane. Schurz, C., Secretary. Mar. 15, 1879. Vol. 6, p. 278.

13. The widow of a soldier who was pensioned under special act is not entitled to succeed to the rights of her deceased husband.

Wilson, Marcellus, widow of. O. W. No. 19,604. Schurz, C., Secretary. June 27, 1879. Vol. 6, p. 381.

[NOTE.—The principle involved in the above decision was affirmed by the Court of Claims on demurrer of the widow of General Ward B. Burnett, certificate No. 3,851, in the Spring of 1885, and has recently been re-affirmed by the Supreme Court of the United States in the same case.

14. Pensioners, under the provisions of special acts, are not entitled to arrears under the provisions of the acts of January 25 and March 3, 1879. There is nothing in those acts "which can be construed as repealing or in any manner modifying" section 4720 of the Revised Statutes fixing the commencement of pension in special-act cases.

Woodson, Edwin. Ctf. No. 112,891. Schurz, C., Secretary. Sept. 11, 1879. Vol. 6, p. 459. (Vide

Bradley, Zenas. No. 122,737. Schurz, C., Secretary. Sept. 19, 1879. Vol. 6, p. 476.

Middleton, Richard. Ctf. No. 103,301. Kirkwood, S. J., Secretary. Sept. 30, 1881. Vol. 8, p. 430.

SPECIAL ACTS—Continued.

15. A pension granted by special act should be suspended when it is learned that it was obtained by fraud, and the papers should be transmitted to Congress, as prescribed by section 4720, Revised Statutes.

Garlio, Frederick A. Bell, A., Acting Secretary. May 31, 1880. Vol. 5, p. 266.

16. Pension in this case was granted by special act of Congress, and, on "satisfactory evidence that fraud was perpetrated in obtaining such special act," the payment thereof was suspended until "the propriety of repealing the same can be considered by Congress;" and for that purpose the papers in the case were referred to the Forty-seventh Congress at its first and again at its second session, and they were returned to this office "without action on the part of Congress."

Thereupon the pensioner claimed payment of his pension.

This was refused, and an appeal was entered; on which the action of this "office in withholding the pension until the matter can be acted on by Congress" was approved, and directions given to have the papers again laid before Congress at its next session.

Gordon, Jerry. Ctf. No. 105,380. Teller, H. M., Secretary. Apr. 9, 1883. Vol. 10, p. 269.

AN ACT granting increase of pension to Ward B. Burnett.

17. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Ward B. Burnett and pay him a pension of \$50 per month in lieu of pension he now receives, but nothing in this act contained shall entitle the said Ward B. Burnett to arrears of pension.

Approved March 3, 1879.

A party receiving a pension of \$50 per month under a special act of Congress is not entitled to increase to \$72 per month under the act of June 16, 1880.

Burnett, Ward B. Mexican War. Ctf. No. 3,851. Bell, A., Acting Secretary. Aug. 26, 1880. Vol. 7, p. 466.

Vide same case. Schurz, C., Secretary. Dec. 20, 1880. Vol. 8, p. 95. *Opinion of Attorney-General July 20, 1881. Vol. 8, p. 374. Also subsequent opinion of Attorney-General in 1882, and decision of Court of Claims on demurrer, in case of the widow of Ward B. Burnett, denying her right to receive as such widow the same amount of pension her husband was receiving at the time of his death. Decision of Court of Claims recently affirmed by Supreme Court of the United States on appeal.

18. Daniel McAlpin was enrolled on the 24th day of May, 1814, and served in Capt. G. G. Steele's company, Sixteenth United States Infantry. The inspection return for April 30, 1815, bears the report that he deserted March 15, 1815. In February, 1875, Mr. McAlpin filed an application for pension under sections 4736 and 4737, Revised Statutes. This claim was rejected for the reason that he was borne on the official record as a deserter. By an act approved March 3, 1885, Con-

*Decision of the Supreme Court of the United States in case of *United States vs. Teller*, 17 Otto, p. 64.

SPECIAL ACTS—Continued.

gress removed the charge of desertion against the claimant, and directed that his name be placed on the pension-roll. He was thereupon allowed a pension from date of the passage of the special act, in accordance with the provisions of section 4720, Revised Statutes. It was subsequently claimed on behalf of Mr. McAlpin that the charge of desertion, which was the only bar to his receiving a pension under the general law, having been removed, he was, by virtue of the provisions of section 4715, Revised Statutes, entitled to waive his right under the special act and to receive a pension under the general law, commencing from February 14, 1871.

On appeal from the action of the Pension Office rejecting this latter claim it was *held*, that where a special act granting a pension does not fix the date for its commencement, the case in this respect is subject to the provisions of section 4720, Revised Statutes, and that the pension must commence from the date of the passage of the act.

McAlpin, Daniel. No. 25,679. War of 1812. Jenks, G. A., Assistant Secretary. Aug. 10, 1885. Vol. 12, p. 37.

19. A special act of Congress, approved July 5, 1884, directed that the name of a confidential scout and guide be placed on the pension-rolls, subject to the provisions and limitations of the pension laws, as though he had been regularly mustered into the United States Army. A claim had been filed under the general law, prior to July 1, 1880. Upon appeal it was *held*, that the pension should be made to commence from the date of discharge, as it was the intention of Congress to place him in the position of one who had been regularly mustered into service.

See decision of M. L. Joslyn, Acting Secretary, in the case of William J. Lee. Ctf. No. 276,076. Oct. 22, 1894. O. W. and N. Vol. 3, p. 289.

RULINGS OF THE COMMISSIONER OF PENSIONS.**RULING No. 65. February 1, 1881.**

Hereafter when a pension is granted under the provisions of a special act of Congress, a declaration for pension thereunder by the beneficiary will not be required: *Provided*, He or she had, at the date of its passage, a claim on file in this office, under the provisions of the general pension laws.

RULING No. 129. August 10, 1885.

Where a pension is granted by special act of Congress and no date for the commencement of said pension is fixed in said act, it will be made to commence from the date of the passage of the act.

Walker, Alvin. Ctf. No. 232,861. Order book, p. 66.

In the case of Martha E. Breese, under date of May 10, 1885, John C. Black, Commissioner of Pensions, decided that "where a widow's pension is increased from \$30 to \$50 per month by a special act of Congress, she is not deprived thereby of the right to draw \$2 per month

SPECIAL ACTS—Continued.

additional for the care and support of each of the soldier's minor children."

RULING No. 149. *November 24, 1885.*

No more than one pension can be allowed to any person. When a claim under the general law has been rejected and a special act granting a pension to the claimant has subsequently passed, and the commencement of such special act pension is fixed either by its terms or by section 4720, Revised Statutes, such determination of the date is evidence of the legislative intent that in such case the pension shall not commence at an earlier date, and therefore it is *held*, that the pensioner is not entitled to further relief under the general law.

Fried, David. Ctf. No. 290,979.

RULING No. 152. *November 25, 1885.*

When it is discovered that a special act granting a pension was obtained through false and fraudulent representations payment thereunder should be suspended and the papers in the case forwarded to Congress, that the propriety of repealing the special act may be considered, as provided by section 4720, Revised Statutes.

After the attention of Congress shall have been thus called to the matter, and when the papers in the case are returned to the Pension Office without action, the special act will be regarded as being still in force and payment of pension thereunder will be resumed.

Wilson, John E. Ctf. No. 110,400.

ORDER OF THE COMMISSIONER OF PENSIONS.

ORDER No. 51. *August 14, 1877.*

The chiefs of the several divisions of the office shall hereafter keep a record of all claims which although meritorious, cannot be allowed under the provisions of the pension laws, in order that a list of all claimants for pension, or increase of pension, who, in the opinion of the Commissioner, ought to be placed upon the pension-rolls, or otherwise provided for, and for doing which there is no sufficient power or authority, can be presented to Congress, as provided by joint resolution approved May 29, 1830.*

* The joint resolution above referred to is as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the heads of departments who may severally [be] charged with the administration of the pension laws of the United States of America, be, and they hereby are, respectively, directed and required as soon as may be after the opening of each session of Congress to present to the Senate and House of Representatives a several list of such persons, whether revolutionary, invalid, or otherwise, as shall have made an application for a pension, or an increase of pension, and as in their opinion, respectively, ought to be placed upon the pension-roll, or otherwise provided for, and for doing which they have no sufficient power or authority, with the names and residence of such persons, the capacity in which they served, the degree of relief proposed, and a brief statement of the grounds thereof, to the end that Congress may consider the same. (Approved May 29, 1830.)

SPECIAL ACTS—Continued.

Such record shall embrace the name of the claimant, service, and residence, number of the claim, nature of the disability, or basis of the claim, the grounds for its rejection, and such remarks touching its merit as may be necessary in the preparation of the Commissioner's report.

SPECIAL CASES.**ORDERS OF THE COMMISSIONER OF PENSIONS.****ORDER No. 66. October 3, 1881.**

No case outside of the number reached for action will be made *special*, unless the reasons therefor, in writing, shall, in the judgment of the Commissioner, be deemed sufficient for such action.

Cases in which primary action has been had may be taken up for *special* action upon the written representation of responsible persons that necessity for early action exists, or that a case is shown to be complete.

Cases under this rule indorsed *special* by deputy commissioners or chief clerk will be respected without the indorsement of the Commissioner, by whom they are hereby delegated to act.

A record of *special* action under this order will be made upon the books kept for that purpose by the Commissioner.

ORDER No. 108. January 23, 1885.

Owing to the pressure brought to bear from all quarters to take cases out of their regular order, and as at this late date poverty and hardship from further delay can be alleged of almost every applicant alike; therefore cases will be taken out of their order only when such cause therefor is shown to the Commissioner in writing as would satisfy the other worthy claimants whose claims precede it, should they know the facts, that such action is proper. Hereafter no case will be advanced that is not brought clearly within this rule.

Extract from circular to chiefs of divisions, dated March 20, 1885.

* * * * *

"2. No cases will be made *special* except by the personal authorization of the Commissioner."

SPECIAL EXAMINERS AND SPECIAL EXAMINATIONS.**Section 4744, Revised Statutes.**

The Commissioner of Pensions is authorized to detail, from time to time, clerks in his office to investigate suspected attempts at fraud on the Government, through and by virtue of the provisions of the pension law, and to aid in prosecuting any person so offending, with such additional compensation as is customary in cases of special service; any

SPECIAL EXAMINERS AND SPECIAL EXAMINATIONS—Continued.

person so detailed shall have the power to administer oaths and take affidavits in the course of any such investigation.

Sec. 30, 3 Mar., 1873; sec. 12, 14 July, 1862; sec. 4, 4 July, 1864.

Amended by act of July 25, 1882, as follows :

* * * * *

“The Commissioneur of Pensions is authorized to detail from time to time clerks or persons employed in his office to make special examinations into the merits of such pension or bounty-land claims, whether pending or adjudicated, as he may deem proper, and to aid in the prosecution of any party appearing on such examinations to be guilty of fraud, either in the presentation or in procuring the allowance of such claims; and any person so detailed shall have power to administer oaths and take affidavits and depositions in the course of such examinations, and to orally examine witnesses, and may employ a stenographer, when deemed necessary by the Commissioner of Pensions, in important cases, such stenographer to be paid by such clerk or person, and the amount so paid to be allowed in his accounts.

“SEC. 3. That in addition to the authority conferred by section one hundred and eighty-four, title four of the Revised Statutes, any judge or clerk of any court of the United States in any State, District, or Territory shall have power, upon the application of the Commissioner of Pensions, to issue a subpoena for a witness, being within the jurisdiction of such court, to appear, at a time and place in the subpoena stated, before any officer authorized to take depositions to be used in the courts of the United States, or before any officer, clerk, or person from the Pension Bureau designated or detailed to investigate or examine into the merits of any pension claim and authorized by law to administer oaths and take affidavits in such investigation or examination, there to give full and true answers to such written interrogatories and cross-interrogatories as may be propounded, or to be orally examined and cross-examined upon the subject of such claim; and witnesses subpoenaed pursuant to this and the preceding section shall be allowed the same compensation as is allowed witnesses in the courts of the United States, and paid in the same manner.”

An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1885, provides :

“For an additional force of one hundred and fifty special examiners for one year, at a salary of one thousand six hundred dollars each, two hundred and forty thousand dollars; and no person so appointed shall be employed in the State from which he is appointed: *Provided*, That all of said appointments shall be temporary and on probation.”

Approved July 7, 1884.

SPECIAL EXAMINERS AND SPECIAL EXAMINATIONS—Continued.

An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1886, provides :

“For an additional force of one hundred and fifty special examiners, for one year, at a salary of one thousand four hundred dollars each, two hundred and ten thousand dollars; and no person so appointed shall be employed in the State from which he is appointed; and any of those now employed in the Pension Office, or as special examiners, may be reappointed if they are found to be qualified.”

Approved March 3, 1885.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. The opinions of special examiners as to a claimant's disability are of no value if they are opposed to competent medical evidence.

Grensel, Nicholas. Ctf. No. 104,844. Delano, C., Secretary. Mar. 4, 1874. Vol. 3, p. 120.

2. Evidence obtained by special investigation should not be furnished to attorneys or claimants.

Nieller, Isaac. Delano, C., Secretary. Sept. 19, 1874. Vol. 3, p. 311. (*Vide* Snell, M. N. Ctf. No. 16,431. Chandler, Z., Secretary. Mar. 18, 1876. Vol. 4, p. 222.)

3. Special examiners detailed under section 4744, Revised Statutes, will not be allowed the additional compensation when employed at the seat of Government for any services rendered within the Pension Office in connection with the investigation of fraud.

Instructions: Cowen, B. R., Acting Secretary. Oct. 2, 1875. Vol. 4, p. 127.

4. Names of witnesses testifying adverse to the claim will not be furnished to parties in interest.

Hill, William A. App. No. 27,880. Schurz, C., Secretary. Jan. 21, 1879. Vol. 6, p. 236.

5. Reports of special examiners are not to be inspected by attorneys or claimants, and names of witnesses not to be communicated.

Farley, A. P. W., widow of Farley, P. M. App. No. 238,570. Bell, A., Acting Secretary. Oct. 3, 1879. Vol. 7, p. 8. (*Vide* Taylor, G. S. App. No. 186,484. Schurz, C., Secretary. June 24, 1880. Vol. 7, p. 306.)

6. “The papers (in this case) show that the usual notice was served upon the appellant informing him of his privilege of being present, in person or by attorney, during the special examination and of cross-examining the witnesses and of introducing any material evidence on his own behalf if he so desired; and also that he was asked whether he desired to be present and replied: ‘I don't desire particularly to be present; * * * if there is any particular ones you wish to examine and you will let me know I will be present if I choose to be;’ also, that at the close of the examination he stated that he ‘was afforded ample opportunity and facility for being present during the examination of witnesses, and was present at the examination of some, but not at others,’

* * * but that ‘all was read’ to him. He was asked if he was

SPECIAL EXAMINERS AND SPECIAL EXAMINATIONS—Continued.

fully satisfied with the manner and form in which the examination had been conducted, and replied 'I am fully satisfied as far as you are concerned and have no fault to find.'

The Department finds, therefore, that the appellant has "no just ground of complaint so far as the conduct of the second special examination is concerned. If he did not choose to avail himself of his privilege of being present at the examination of witnesses he cannot now take advantage of his own laches to impeach the fairness of said examination. The first examination was conducted on the *ex parte* system then in vogue, but there is no evidence of bias against the appellant on the part of either the examiner or the witnesses."

Fanning, George W. Ctf. No. 138,348. Teller, H. M., Secretary. Feb. 21, 1884. Vol. 11, p. 145.

ORDERS OF THE COMMISSIONER OF PENSIONS.**ORDER No. 76. March 6, 1882.**

All cases submitted for special examination shall be accompanied by a slip signed by chief of division referring the case, stating explicitly just what points should be inquired into, and the reasons therefor. When purely medical questions are involved the directions of the Medical Referee, as to points for examination, should be included in above. The slip should also state that all necessary and accessible evidence from the several Departments has been obtained, and that all the evidence, including post-office address of witnesses, has been properly briefed. The object of this order is to confine the investigation to the vital points at issue, and not have time wasted on non-essential matters.

ORDER No. 112. May 2, 1885.

No case must be referred for special examination without the authority of the chief of the division from which the reference is made, and the chief of the Special Examination Division is authorized and directed to return all cases sent to him without such authority.

ORDER No. 115. May 15, 1885.

I. When matters are referred to the Special Examination Division, it is made the duty of the person referring them to indicate precisely the point upon which the special examination is required. Cumulative evidence upon points already established and not in controversy is not to be called for.

The special examiner to whom any such case shall be referred will confine his investigation primarily to such point or points so indicated.

It is not intended in any event to prevent the examiner from taking all testimony that may present itself as to fraudulent imposition or action on the part of the claimant, his attorney, or friends; the object of this order being to prevent the taking of unnecessary evidence and the consumption of time and consequent expense on matters not material or on matters already established.

SPECIAL EXAMINERS AND SPECIAL EXAMINATIONS—Continued.

II. It has come to the attention of the Commissioner that a great deal of the labor performed by special examiners in the taking of depositions is devoted to merely formal matter, and that in such cases the interrogatories and answers of witnesses are spread at large.

Accuracy of statement is requisite, but detailed and verbose statements are not necessary. They impede the work of the examiner and the work of the reviewer. It is therefore ordered:

1st. That in all cases, where practicable, mere matters of form shall be put in the *narrative*, and not in the "interrogative and responsive" form.

2d. The taking of evidence upon points where no controversy exists is to be avoided. The real merits of every case may be dwelt upon, and all testimony necessary to elicit the real merits should be taken; but unnecessary iteration of service, age, &c., should not be constantly made to increase the labor of all parties concerned, and to involve the consumption of valuable time.

3d. When reaching points of merit, or debatable points in a case, all necessary care will be taken to fully establish and declare the meaning of witnesses, and wherever essential, the interrogative and responsive form may then be used.

4th. Intelligent compliance with these instructions, it is confidently believed by the Commissioner, will diminish, by nearly one-half, the volume of labor now performed in any given case by the special examiner, and will enable a larger result to be produced by him.

5th. After the taking of each deposition it must carefully be read and thoroughly made known to the witness, and then subscribed and sworn to. This in addition to oath first administered.

SPECIFIC AND NON-SPECIFIC DISABILITIES.

(For the law enumerating and prescribing the rates for specific and non-specific disabilities, see RATES OF PENSION.)

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. A non-specific disability which does not preclude the possibility of the performance of manual labor does not entitle a claimant or a pensioner to a second-grade pension.

Golden, Stephen. Ctf. No. 51,982. Schurz, C., Secretary. Mar. 25, 1877. Vol. 5, p. 66.

2. A disability which requires a medical examination to determine its nature is *not* specific.

Hutchinson, Henry. Opinion of Attorney-General. May 17, 1879. Vol. 6, p. 37.

3. A specific disability, within the meaning of section 4698½, is a disability which is particularly mentioned in the law, and for which a specific rate of pension is provided. In the view of the Department the

SPECIFIC AND NON-SPECIFIC DISABILITIES—Continued.

restriction contained in section 4698½, Revised Statutes, would preclude the office from disturbing the allowance made in a case wherein the disability has varied in degree, and the rate of pension having been allowed in accordance with the evidence on file at the date of adjudication.

Where the disability is a loss of a part of hand or foot or other portion of the body, and where the evidence is positive that the disability has been the same from the date of discharge, and the rate of pension has not been proportionate to the degree of disability, and not as great as allowed by the office in other cases in all respects similar, the law should not be construed to prevent the allowance of the rate which was usually allowed in cases of the same disability.

Hultz, William. Ctf. No. 68,652. Schurz, C., Secretary. Apr. 2, 1880. Vol. 7, p. 272.

Kelly, Michael. Ctf. 45,833. Delano, C., Secretary. Aug. 5, 1875. Vol. 4, p. 157.

Kent, George E. Chandler, Z., Secretary. Sept. 1, 1876. Vol. 4, p. 389.

Howard, Henry. Ctf. No. 78,121. Devens, C., Attorney-General. May 17, 1878. Vol. 6, p. 250.

STEP-FATHERS.**DECISION OF THE SECRETARY OF THE INTERIOR.**

1. Step-fathers not legally bound to aid in the support of step-children.

Haas, Christian. App. No. 197,759. Delano, C., Secretary. July 2, 1875.

SUICIDE.

See LINE OF DUTY, *par.* 17, and PRESUMPTION OF FACT, *par.* 2.

SUSPENSION OF PENSIONS.

See SECTION 4720, REVISED STATUTES, UNDER SPECIAL ACTS.

Section 4739, Revised Statutes.

* * * * *

The Secretary of the Interior shall cause to be stricken from the pension-roll the name of any person whenever it appears, by proof satisfactory, that such name was put upon such roll through false or fraudulent representations.

Section 3 of the act of June 21, 1879, contains the following :

* * * "But in no case shall a pension be withdrawn or reduced except upon notice to the pensioner and a hearing upon sworn testimony, except as to the certificate of the examining surgeon." * * *

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. When a soldier has once established a claim upon the bounty of the Government, in accordance with the rules and regulations of the

SUSPENSION OF PENSIONS—Continued.

Pension Office, the impropriety of suspending his pension upon the unsupported and unsworn statements of one man is manifest. In cases where such statements are filed an effort should be made, through the medium of special examination, to determine their truth or falsity.

Simmons, L. A. Ctf. No. 70,032. Delano, C., Secretary. May 5, 1874. Vol. 3, p. 188.

2. The suspension of a pension is warranted if it is discovered to have been improperly allowed through fraud or error.

Harris, Catharine. Ctf. No. 164,180. Delano, C., Secretary. Dec. 1, 1874. Vol. 3, p. 380.

3. In the suspension of a pension the same degree of caution should be observed which obtained in its original allowance; and before a pensioner's name is dropped from the rolls he should be allowed an opportunity to show that he is justly entitled to the pension he is receiving.

Calhoun, William W. Ctf. No. 122,550. Chandler, Z., Secretary. Jan. 4, 1876. Vol. 4, p. 180.

4. Where party was pensioned for disability contracted in the service and it was discovered that he was a deserter from a *prior* service, pension was suspended upon the ground that his injury was not contracted in the line of duty, he being a deserter: *Held*, that faithful subsequent service condoned desertion from prior service; that the pension laws are beneficial in character, and their interpretation should be broad and liberal, and that suspension should be removed.

Case of Brush *alias* Judd, par. 6, under head of DESERTION.

ORDER OF THE COMMISSIONER OF PENSIONS.**ORDER No. 35. December 9, 1875.**

All cases wherein payment of pension is to be suspended or resumed, or the name of the pensioner is to be dropped from the roll, shall be referred to the division of special examination, with a recommendation setting forth fully the reasons for such action. The chief of the division of special examination will then prepare, for the signature of the Commissioner, an order to suspend, remove, or drop, as the case may be, which order will be sent to the certificate and account division for the purpose of having the pension agent notified, after which it will be filed with the papers in the case. In cases of dropping or reduction, except in cases that have been specially examined, and of which special examinations claimants had due notice, sixty days' notice will be sent to the pensioner under the provisions of law, at the expiration of which time his or her name shall be dropped from the rolls or pension reduced, as the case may be, unless it shall have been satisfactorily shown to this office by evidence filed in rebuttal why such action should not be taken.

In all cases of dropping from the roll the name of any pensioner, the Commissioner will submit the name with the cause of dropping in a proper letter to the Secretary of the Interior, whose authority is required in all cases where this action is had, except in cases of remarriage or

SUSPENSION OF PENSIONS—Continued.

where the disability has ceased, and upon the receipt of the approval of the Secretary of such action, the pension agent will be informed by due notice through the certificate and account division, and the pensioner by a letter from this office advising him or her thereof.

T.**TEAMSTERS, WAR OF 1812.**

See SERVICE PENSIONS, WAR OF 1812, par. 5.

THIRD AUDITOR.

See JURISDICTION.

TITLE OR RIGHT TO PENSION.**Section 4692, Revised Statutes.**

Every person specified in the several classes enumerated in the following section, who has been, since the fourth day of March, eighteen hundred and sixty-one, or who is hereafter disabled under the conditions therein stated, shall, upon making due proof of the fact, according to such forms and regulations as are or may be provided in pursuance of law, be placed on the list of invalid pensioners of the United States, and be entitled to receive, for a total disability, or a permanent specific disability, such pension as is hereinafter provided in such cases; and for an inferior disability, except in cases of permanent specific disability, for which the rate of pension is expressly provided, an amount proportionate to that provided for total disability; and such pension shall commence as hereinafter provided, and continue during the existence of the disability.

Sec. 1, 3 Mar., 1873; sec. 1, 14 July, 1862.

Section 4693, Revised Statutes.

The persons entitled as beneficiaries under the preceding section are as follows:

First. Any officer of the Army, including regulars, volunteers, and militia, or any officer in the Navy or Marine Corps, or any enlisted man, however employed, in the military or naval service of the United States, or in its Marine Corps, whether regularly mustered or not, disabled by reason of any wound or injury received or disease contracted while in the service of the United States and in the line of duty.

Sec. 1, 3 Mar., 1873; secs. 1, 10, 14 July, 1862; sec. 11, 4 July, 1864.

Second. Any master serving on a gunboat, or any pilot, engineer, sailor, or other person not regularly mustered, serving upon any

TITLE OR RIGHT TO PENSION—Continued.

boat or war vessel of the United States, disabled by any wound or injury received, or otherwise incapacitated, while in the line of duty, for procuring his subsistence by manual labor.

Resolution, 16 July, 1862.

Third. Any person not an enlisted soldier in the Army, serving for the time being as a member of the militia of any State, under orders of an officer of the United States, or who volunteered for the time being to serve with any regularly organized military or naval force of the United States, or who otherwise volunteered and rendered service in any engagement with rebels or Indians, disabled in consequence of wounds or injury received in the line of duty in such temporary service. But no claim of a State militiaman, or non-enlisted person, on account of disability from wounds or injury received in battle with rebels or Indians, while temporarily rendering service, shall be valid unless prosecuted to a successful issue prior to the fourth day of July, eighteen hundred and seventy-four.

Sec. 1, 3 Mar., 1873; sec. 9, 4 July, 1864; sec. 11, 27 July, 1868.

Fourth. Any acting assistant or contract surgeon disabled by any wound or injury received or disease contracted in the line of duty while actually performing the duties of assistant surgeon or acting assistant surgeon with any military force in the field, or in transitu, or in hospital.

Sec. 1, 3 Mar., 1873; sec. 2, 3 Mar., 1865.

Fifth. Any provost-marshal, deputy provost-marshal, or enrolling-officer disabled, by reason of any wound or injury, received in the discharge of his duty, to procure a subsistence by manual labor.

Sec. 1, 3 Mar., 1873; sec. 1, 25 July, 1866.

Section 4722, Revised Statutes.

The provisions of this Title are extended to the officers and privates of the Missouri State militia, and the provisional Missouri militia, disabled by reason of injury received or disease contracted in the line of duty while such militia was co-operating with United States forces, and the widow or children of any such person, dying of injury received or disease contracted under the circumstances herein set forth, shall be entitled to the benefits of this Title. But the pensions on account of such militia shall not commence prior to the third day of March, one thousand eight hundred and seventy-three.

Sec. 3, 3 Mar., 1873; see sec. 9, 4 July, 1864; see secs. 1, 2, 25 Mar., 1862.

Section 4741, Revised Statutes.

The officers and seamen of the revenue-cutters of the United States, who have been or may be wounded or disabled in the discharge of their duty while co-operating with the Navy by order of the President, shall be entitled to be placed on the Navy pension-list, at the same rate of

TITLE OR RIGHT TO PENSION—Continued.

pension and under the same regulations and restrictions as are provided by law for the officers and seamen of the Navy.

Act 18 Apr., 1814.

AN ACT to secure to the officers and men actually employed in the Western Department, or Department of Missouri, their pay, bounty, and pension. Approved March 25, 1862.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized and required to allow and pay to the officers, non-commissioned officers, musicians, and privates, who have been heretofore actually employed in the military service of the United States, whether mustered into actual service or not, where their services were accepted and actually employed by the generals who have been in command of the Department of the West or the Department of the Missouri, the pay and bounty as in cases of regular enlistment.

Act 25 Mar., 1862.

SEC. 2. *And be it further enacted, That the officers, non-commissioned officers, musicians, and privates so employed who may have been wounded or incapacitated for service, shall be entitled to and receive the pension allowed for such disability: Provided, That the length and character of their enlistment and service be such as to entitle them under existing laws to such pension.*

AN ACT for the relief of citizens of Montana who served with the United States troops in the war with Nez Percés, and for the relief of the heirs of such as were killed in such service.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That each volunteer who joined the forces of the United States, in the Territory of Montana, during the war with the Nez Perce Indians, shall be paid one dollar per day during the term of such service, from the time that he left his home until he was returned thereto, including all the time spent in hospital under treatment by such as received wounds or other injuries in such service.

Act Mar. 3, 1881.

SEC. 2. That all persons who were wounded or disabled in such service, and the heirs of all who were killed in such service, shall be entitled to all the benefits of the pension laws, in the same manner and to the same extent as if they had been duly mustered into the regular or volunteer forces of the United States.

* * * * *

Of Dependent Relatives. See DEPENDENCE.

Of Minors. See MINORS.

Of Widows. See WIDOWS.

TITLE OR RIGHT TO PENSION—Continued.

Of Additional Paymasters ; Employés of Commissary and Quartermaster's Departments ; Civil Surgeons ; Non-enlisted Persons ; Persons Attached to the Revenue Marine Service ; Professors in the Military Academy ; Medical Cadets and Hospital Matrons. See CIVILIANS IN SERVICE OF A QUASI-MILITARY CHARACTER.

Of Steersmen. See GUNBOAT, RAM FLEET, AND MISSISSIPPI MARINE BRIGADE.

Of Teamsters, War of 1812. See SERVICE PENSIONS, WAR OF 1812, par. 5.

Of Privateersmen. See SERVICE PENSIONS, WAR OF 1812, par. 5.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

Death of soldier from disease contracted in time of peace, prior to March 4, 1861, gives no title to widow.

Stoll, Hester. Gorham, Charles T., Acting Secretary. Oct. 12, 1876. Vol. 4, p. 419; also Dealin, Ellen. Gorham, Charles T., Acting Secretary. Oct. 13, 1876. Vol. 4, p. 420; also Race, Henry (minor). Gorham, Charles T., Acting Secretary. Oct. 13, 1876. Vol. 4, p. 432.
Silvey, Isabella H., widow of Silvey, William. (O. W.) Schurz, C., Secretary. May 4, 1877. Vol. 5, p. 103.

Title to pension does not exist where the proof shows that the disability was, no doubt, accelerated by exposure while in the service, but did not originate therein.

Prince, Jacob. App. No. 161,928. Schurz, C., Secretary. June 25, 1880. Vol. 7, p. 207.

When a soldier died from a cause due to his military service, leaving neither widow nor child or children under sixteen years of age at the time of his death, nor father, surviving, but did leave a mother, who had remarried prior to his death, and also orphan brothers, under sixteen years of age, it was *held*, on appeal, that if the mother was not and the orphan brothers were dependent upon him for support at the date of his death, they would be entitled to pension.

Orphan brothers of Napoleon Beck. No. 148,197. Teller, H. M., Secretary. June 12, 1882. Vol. 9, p. 218.

RULINGS OF THE COMMISSIONER OF PENSIONS.

RULING No. 23. *February 9, 1870.*

The heirs of a person who was disabled in the naval service of the United States prior to March 4, 1861, and who has died since leaving such service, are entitled to no pension, except such as may have accrued to him as an invalid.

RULING No. 86. *April 7, 1885.*

A woman cannot receive pension as a widow and as a dependent mother at the same time. She can elect which one of the two claims she will perfect in case neither of said claims has been allowed. (See section 4715, Revised Statutes.)

Shields, Albert, mother of. App. No. 254,689.

TOTAL DISABILITY.

See DISABILITY; *and* RATES OF PENSION.

TREATMENT IN SERVICE.

See EVIDENCE, MEDICAL.

W.**WAITERS, WAR OF 1812.**

See SERVICE PENSIONS, WAR OF 1812, *par* 5.

WARS AND LOCAL DISTURBANCES.

WARS AND LOCAL DISTURBANCES WITHIN THE TERRITORY OF THE UNITED STATES OR IN WHICH THE UNITED STATES OR SOME ONE OF THEM WAS DIRECTLY OR INDIRECTLY INVOLVED.*

War of the Revolution (April 19, 1775, to April 11, 1783).—War for the Independence of the United States, extending over the entire territory of the original thirteen States.

Wyoming Valley War, Pennsylvania (1782–1787).—A local disturbance between settlers from Pennsylvania and Connecticut in said valley.

Shays' Rebellion, Massachusetts (December, 1786, to January, 1787).—Local, grew out of burdensome taxation, confined to, and suppressed by militia of the State of Massachusetts.

Whisky Insurrection, Pennsylvania (August to November, 1794).—Local, arose in consequence of certain taxes on domestic spirits. Was suppressed by the authority of the United States.

Northwestern Indian War, Ohio (1790 to August, 1795).—Local, but carried on by the United States, with, first, an army under General Harmer in 1790; second, an army under General St. Clair in 1791, and third, an army under General Wayne in 1794–1795.

War with France, naval (July 9, 1798, to September 30, 1800).—Carried on by the United States, through its Navy and privateersmen.

War with Tripoli, northern coast of Africa (June 10, 1801, to June 4, 1805).—Carried on by the authority of the United States, through its Navy.

Burr's insurrection, Southern Mississippi Valley (November 27, 1806, to February 19, 1807).—Local; troops called out by authority of the General Government. No fighting.

* It is not claimed that the above list includes all the minor Indian troubles and expeditions or all local disturbances. Many of the disturbances named in the table do not give title to either pension or bounty-land.

WARS AND LOCAL DISTURBANCES—Continued.

Chesapeake war, naval (July 9, 1807, to August 5, 1807).—Disturbance growing out of attack of the British frigate "Leopard" on the American frigate "Chesapeake", as the result of the British claim to the right of search. The attack occurred at sea off Hampton Roads, Virginia. The militia were called out by authority of the President.

Northwestern Indian war, Indiana (September 21 to November 18, 1811).—Local, but carried on by the United States, by an army under General Harrison, who virtually ended the war, by the battle of Tippecanoe.

Naval engagement (1811).—A naval engagement between the British sloop of war "Little Belt" and the American ship "President," on the Atlantic, off southern coast of United States, resulting from the British claim of right to search.

Florida Seminole Indian war, Florida (August 15 to October, 1812).—Local; conducted by Georgia volunteers against the Latchaway and Alligator Indians.

War of 1812, with Great Britain (June 18, 1812, to February 17, 1815).—General; covering nearly entire territory of the United States, especially the seaboard.

Peoria Indian war, Illinois (September 19, to October 21, 1813).—An expedition against Indians, in which the Illinois and Missouri volunteers and some regulars participated.

Creek Indian war, Georgia, Alabama, Mississippi, and Tennessee (July 27, 1813, to August 9, 1814).—Local, but conducted by the authority of the United States.

Lafitte's Pirates, Commodore Patterson's expedition against (1814).—Local, but conducted by the authority of the United States.

War with the Barbary Powers, naval (March 3, 1815, to August 9, 1815).—Conducted by the authority of the United States, through its Navy, on the northern coast of Africa.

Seminole Indian war, Florida and Georgia (November 20, 1817, to October 31, 1818).—Local, but conducted by the authority of the United States.

Lafitte's Pirates, Lieutenant Kearney's naval expedition against, at Galveston (1821).—Local, but conducted by the authority of the United States.

Arickaree or Rickaree Indian war, Missouri River, Dakota Territory (August, 1823).—Local; conducted by the United States.

Fever River expedition against the Indians, Illinois (1827).—Local; under the authority of the State of Illinois.

WARS AND LOCAL DISTURBANCES—Continued.

Winnebago Indian disturbances, Wisconsin (June 28 to September 27, 1827).—Local; not recognized as a war.

Sac and Fox Indian war, Illinois (June and July, 1831).—Local; not recognized as approximating to actual warfare. No fighting.

Black Hawk Indian war, Illinois and Wisconsin (April 26, 1832, to September 30, 1832).—Local; carried on by the United States.

Toledo war, Ohio and Michigan (1835–1836).—Local; disturbance arising over disputes in regard to boundary line between Ohio and Michigan. Settled by States.

Texan wars prior to her annexation (1835, 1836).—Wars conducted by Texas as an independent State, before its admission into the Union.

Indian Stream war, New Hampshire (November, 1835, to February, 1836).—Local; disturbance over boundary line between New Hampshire and Canada. Not a United States war.

Creek Indian war, Georgia and Alabama (February, 1836, to summer, 1837).—Local, but conducted by the United States.

Florida or Seminole Indian war, Florida, Georgia, and Alabama (December 28, 1835, to August 14, 1842).—Local; conducted by authority of the United States.

Sabine or Southwestern Indian disturbance, Louisiana (April, 1836, to April, 1837).—Local, but conducted by authority of the United States.

Cherokee Indian disturbance and removal (1836 to 1838).—Local. Removal of Cherokee tribe of Indians by the United States. Not recognized as a war.

Osage Indian war, Missouri (fall of 1837).—Local, and carried on by the State of Missouri.

Patriot war, New York and Vermont (1838, 1839).—Not recognized as a war. It was owing to an attempted rebellion in Canada against the British Government. Troops were called out in New York and Vermont, to prevent any invasion of the United States territory.

Heatherly disturbance, Missouri (July to November, 1836).—Local; a disturbance by the Indians near the Iowa and Missouri line; conducted entirely by Missouri volunteers.

Mormon war, Missouri (1838).—Local disturbance, which was suppressed by State authority.

Aroostook war, Maine (1839).—Local disturbance, growing out of disputes as to boundary between the United States and Canada. Not recognized as a war.

WARS AND LOCAL DISTURBANCES—Continued.

Dorr's rebellion, Rhode Island (May 3, to June 28, 1842).—Local; was an attempt of the suffrage party, under Governor T. W. Dorr, to seize the State government. Was suppressed by State authority.

Mormon war, Illinois (1844).—Local disturbance; suppressed by State authority.

Mexican war (April 24, 1846, to May 30, 1848).—Carried on by the General Government, and confined to the enemy's country.

Cayuse Indian war, Oregon (December, 1847, to July, 1848).—Conducted by the United States.

Cuban troubles (1849–1851).—Neither the United States Government nor any particular State was in any way involved in these troubles, except in attempts to prevent the fitting out and departure from the United States of expeditions against the Spanish authorities.

Texas and New Mexico Indian war (1849, 1850–1855).—Carried on by the United States and mainly with the regulars.

California Indian disturbance (—1851, 1852).—Local, but under authority of the United States.

Utah Indian disturbances (1850–1853).—Local, but under authority of the United States.

Rogue River Indian war, Oregon (June 17, to July 3, 1851, August 8, to September, 1853, March to June, 1856).—Local, but conducted by the United States.

Naval expedition to Japan, Commodore Perry's (1853, 1854).—Not recognized as a war. Made by authority of the United States through its Navy.

China disturbances (1854).—Engagements by a vessel of the United States Navy with some Chinese vessels at Shanghai, China.

Oregon Indian war, Oregon (August and September, 1854).—Local, but under authority of the United States.

Nicaraguan troubles (1854–1858).—A naval attack on Graytown in 1854 and naval operations for the purpose of suppressing filibustering expeditions, especially Walker's.

Kansas troubles (1854–1859).—Local disturbances between the early settlers in the Territory of Kansas, in which the United States was not involved.

Cuban troubles (February, 1854).—Remarks on Cuban troubles of 1849–1851 apply also to this period.

Yakima Indian war (October and November, 1855).—Local, but under authority of the United States.

WARS AND LOCAL DISTURBANCES—Continued.

Klamath and Salmon River Indian war, Oregon and Idaho (January to March, 1855).—Local, but under the authority of the United States.

Florida Indian war, Florida (December 15, 1855, to May, 1858).—Local, but under the authority of the United States.

John Brown's raid, Virginia (October, 1859).—Local disturbance, suppressed by the State authorities, assisted by some United States troops.

War of the Rebellion (April 15, 1861 to May 9, 1865).—General.

Sioux Indian war, Minnesota (August, 1862 to 1863).—Local, but under the authority of the United States.

Campaign against the Cheyenne Indians (1861–1864).—Local, but under the authority of the United States.

Campaign against Indians, Oregon, Idaho, and California (1865–1868).—Local, but under the authority of the United States.

Fenian invasion of Canada (May and June, 1866).—Neither the General Government nor any particular State was in any manner involved in this affair, except that the expedition was fitted out in and set out from the territory of the United States.

Campaign against the Indians, Kansas, Colorado, and Indian Territory (1867–1869).—Local, but under the authority of the United States.

Cuban troubles—the Republic (1867–1878).—Remarks on Cuban troubles of 1849–1851 apply also to this period.

Modoc Indian war, Oregon (1872, 1873).—Local, but under the authority of the United States.

Campaign against the Apaches, Arizona (1873).—Local, but under the authority of the United States.

Arkansas, war for possession of State government of (February to May, 1874).—A local attempt to overthrow the State government.

Campaign against the Indians, Kansas, Colorado, Texas, Indian Territory, and New Mexico (1874–1875).—Local, but under the authority of the United States.

Louisiana, war for possession of State government of (September, 1874).—A local attempt to overthrow the State government. United States troops not directly engaged.

Campaign against Cheyenne and Sioux Indians, Dakota (1876–1877).—Local, but under the authority of the United States.

WARS AND LOCAL DISTURBANCES—Continued.

Railroad strike, Pennsylvania and Maryland (1877).

Nez Percé Indian war, Utah (1877).—Local, but under the authority of the United States.

Bannock Indian war, Idaho, Washington Territory, and Wyoming Territory (1878).—Local, but under the authority of the United States.

Campaign against the Cheyenne Indians, Dakota and Montana (1878–1879).—Local, but under the authority of the United States.

White River campaign against the Ute Indians, Utah and Colorado (September 29 to October 5, 1879).—Local, but under the authority of the United States.

WAR OF 1812.

See SERVICE PENSIONS, WAR OF 1812.

WIDOWS.**Section 4702, Revised Statutes.**

If any person embraced within the provisions of sections forty-six hundred and ninety-two and forty-six hundred and ninety-three has died since the fourth day of March, eighteen hundred and sixty-one, or hereafter dies by reason of any wound, injury, or disease which, under the conditions and limitations of such sections, would have entitled him to an invalid pension had he been disabled, his widow, or if there be no widow, or in case of her death, without payment to her of any part of the pension hereinafter mentioned, his child or children, under sixteen years of age, shall be entitled to receive the same pension as the husband or father would have been entitled to had he been totally disabled, to commence from the death of the husband or father, to continue to the widow during her widowhood, and to his child or children until they severally attain the age of sixteen years, and no longer; and, if the widow remarry, the child or children shall be entitled from the date of remarriage.

Sec. 8, 3 Mar., 1873; sec. 2, 14 July, 1862; sec. 11, 14 July, 1862; sec. 4, 3 Mar., 1865.

AN ACT to amend section forty-seven hundred and two, title fifty-seven, Revised Statutes of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section forty-seven hundred and two, title fifty-seven of the Revised Statutes of the United States, is hereby amended so as to read as follows:

“SEC. 4702. If any person embraced within the provisions of sections forty-six hundred and ninety-two and forty-six hundred and ninety-three has died since the fourth day of March, eighteen hundred and sixty-one, or hereafter dies, by reason of any wound, injury, or disease which, under the conditions and limitations of such sections, would have

WIDOWS—Continued.

entitled him to an invalid pension had he been disabled, his widow, or if there be no widow, or in the case of her death without payment to her of any part of the pension hereinafter mentioned, his child or children under sixteen years of age, shall be entitled to receive the same pension as the husband or father would have been entitled to had he been totally disabled, to commence from the death of the husband or father, to continue to the widow during her widowhood, and to his child or children until they severally attain the age of sixteen years, and no longer; and if the widow remarry, the child or children shall be entitled from the date of remarriage, except when such widow has continued to draw the pension-money after her remarriage, in contravention of law, and such child or children have resided with and been supported by her, their pension will commence at the date to which the widow was last paid."

SEC. 2. That marriages, except such as are mentioned in section forty-seven hundred and five of the Revised Statutes, shall be proven in pension cases to be legal marriages according to the law of the place where the parties resided at the time of marriage or at the time when the right to pension accrued; and the open and notorious adulterous cohabitation of a widow who is a pensioner shall operate to terminate her pension from the commencement of such cohabitation.

Approved August 7, 1882.

Section 4703, Revised Statutes.

The pensions of widows shall be increased from and after the twenty-fifth day of July, eighteen hundred and sixty-six, at the rate of two dollars per month for each child under the age of sixteen years of the husband on account of whose death the claim has been, or shall be, granted. And in every case in which the deceased husband has left, or shall leave, no widow, or where his widow has died or married again, or where she has been deprived of her pension under the provisions of the pension law, the pension granted to such child or children shall be increased to the same amount per month that would be allowed under the foregoing provisions to the widow, if living and entitled to a pension: *Provided*, That the additional pension herein granted to the widow on account of the child or children of the husband by a former wife shall be paid to her only for such period of her widowhood as she has been, or shall be, charged with the maintenance of such child or children; for any period during which she has not been, or she shall not be, so charged it shall be granted and paid to the guardian of such child or children: *Provided further*, That a widow or guardian to whom increase of pension has been, or shall hereafter be, granted on account of minor children shall not be deprived thereof by reason of their being maintained in whole or in part at the expense of a State or the public in any educational institution, or in any institution organized for the care of soldiers' orphans.

Sec. 3, 3 Mar., 1873; sec. 2, 25 July, 1866; sec. 4, 27 July, 1866; sec. 5, 27 July, 1868.

WIDOWS—Continued.**Section 4706, Revised Statutes.**

If any person has died, or shall hereafter die, leaving a widow entitled to a pension by reason of his death, and a child or children under sixteen years of age by such widow, and it shall be duly certified under seal by any court having probate jurisdiction that satisfactory evidence has been produced before such court, upon due notice to the widow, that she has abandoned the care of such child or children, or that she is an unsuitable person, by reason of immoral conduct, to have the custody of the same, on presentation of satisfactory evidence thereof to the Commissioner of Pensions, no pension shall be allowed to such widow until such child or children shall have attained the age of sixteen years, any provisions of law to the contrary notwithstanding, and the said child or children shall be pensioned in the same manner, and from the same date, as if no widow had survived such person, and such pension shall be paid to the guardian of such child or children; but if in any case payment of pension shall have been made to the widow, the pension to the child or children shall commence from the date to which her pension has been paid.

Sec. 12, 3 Mar., 1873; sec. 11, 6 June, 1866; sec. 8, 27 July, 1868.

Section 4718, Revised Statutes.

If any pensioner has died or shall hereafter die, or if any person entitled to a pension, having an application therefor pending, has died or shall hereafter die, his widow, or if there is no widow, the child or children of such person under the age of sixteen years shall be entitled to receive the accrued pension to the date of the death of such person.

* * * * *

Sec. 25, 3 Mar., 1873; sec. 10, 4 July, 1864; sec. 6, 6 June, 1866.

Section 4735, Revised Statutes.

No pension shall be granted to a widow for the same time that her husband received one.

Act 30 Apr., 1844. See resolution 23 Jan., 1845.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. An assistant engineer in the Navy tendered his resignation to take effect November 12, 1861. On the 8th day of July, 1862, he died of disease contracted in the service and line of duty: *Held*, that his widow is entitled to pension under the provisions of the act of July 14, 1862.

Horne, Amanda. Usher, J. P., Secretary. June 24, 1863. Vol. 1, p. 26.

2. There can be no title to pension on account of the death of a soldier where the cause thereof occurred after discharge, unless said cause resulted directly from disease contracted or injury received in the service.

Meador, Lydia C. App. No 62,902. Harlan, James Secretary. July 14, 1865. Vol. 2, p. 170.

WIDOWS—Continued.

3. Widows who are receiving pensions granted by special acts of Congress are not deprived thereby of the right to draw two dollars per month additional for the care and support of each of the soldier's minor children.

Ward, Anna E. App. No. 176,310. Browning, O. H., Secretary. Jan. 17, 1867. Vol. 1, p. 77.
See ruling of Commissioner, Black, J. C., in the case of Martha E. Broese, under the head of "SPECIAL ACTS."

4. Widows who abandon their minor children forfeit their title to pension.

See Section 4706, Revised Statutes; and ABANDONMENT.

5. Additional pension to widows on account of minor children commences July 25, 1866.

Proctor, G. W. N. Ctf. No. 114,337. Cox, J. D., Secretary. May 13, 1869. Vol. 2, p. 106.

6. A widow is entitled to the accrued pension of her husband if his claim was completed prior to his death.

Instructions: Cox, J. D., Secretary. July 12, 1869. Vol. 2, p. 202.

[NOTE.—It is held under present practice that a widow succeeds to all the rights under the law that the soldier would have had if he had lived, including the right to complete his pending invalid claim, and, upon such completion, to receive the accrued pension.]

7. If a widow pensioner remarries before payment, leaving minor children, said children are entitled to all the pension.

Jones, Catharine. Ctf. No. 95,248. Delano, C., Secretary. Oct. 21, 1870. Vol. 1, p. 91.

8. A widow is entitled to the same pension as soldier would be if he were living and totally disabled.*

French, Emily S. Ctf. No. 52,543. Delano, C., Secretary. Feb. 7, 1871. Vol. 1, pp. 99, 130.

9. The widow of a hospital steward is entitled to pension if the cause of her husband's death was contracted at a military post.

Plumer, Josephine. App. No. 190,678. Delano, C., Secretary. Mar. 23, 1872. Vol. 1, p. 178.

See GENERAL SERVICE.

10. If claim was pending at date of remarriage, widow entitled to said date.

Claise, Luce M. Ctf. No. 159,752. Delano, C., Secretary. Nov. 15, 1872. Vol. 1, p. 216.

Simons, Minerva J. App. No. 212,002. Delano, C., Secretary. July 10, 1874. Vol. 3, p. 270.

11. Death of soldier after March 4, 1861, if cause contracted previously, widow entitled to pension under ante-rebellion laws.

Cunningham, Ann H. Delano, C., Secretary. Apr. 17, 1874. Vol. 3, p. 174.

Herron, Mary. O. W. No. 20,495. Kirkwood, S. J., Secretary. June 21, 1881. Vol. 8, p. 317.

See OLD WARS, par. 26.

12. The widow of a general service man employed in the War Department is entitled to pension if soldier died of disease contracted in said service.

Whiting, Joanna C. App. No. 179,572. Delano, C., Secretary. Dec. 10, 1874. Vol. 3, p. 414.

See GENERAL SERVICE.

* Recently affirmed by the Supreme Court of the United States in the case of the widow of General Ward B. Burnett.

WIDOWS—Continued.

13. The widow of a non-enlisted man is not entitled if her husband, at the date of his death, was not entitled by reason of the expiration of the limitation contained in the third paragraph of section 4093, Revised Statutes.

Gonnell, Margaret. App. No. 176,141. Delano, C., Secretary. Jan. 26, 1875. Vol. 3, p. 443.

14. A widow, if insane, is only entitled through guardian to her share of the pension, and not the pension allowed on account of minor children.

Beier, Adam (minors of). App. No. 216,650. Chandler, Z., Secretary. Dec. 7, 1875. Vol. 4, p. 161.

15. A widow is not entitled if death of soldier is caused partly by the disability for which pensioned and partly by a disability contracted after leaving the service.

Patterson, Elizabeth. App. No. 222,406. Chandler, Z., Secretary. Aug. 9, 1876. Vol. 4, p. 360.

16. Claim for pension based upon the ground that the acute attack of pneumonia from which the soldier died would not have been fatal had his constitution not been broken down by previously existing disease, i. e., diarrhoea: *Held*, that if such connection existed it is not susceptible of such proof as would justify the allowance of widow's claim; in fact, it is too remote and uncertain.

Hoy, Elizabeth, widow of Hoy, James. App. No. 198,817. Schurz, C., Secretary. June 5, 1877. Vol. 5, p. 129. (Vide Hallett, Jane E., widow of Hallett, Jeremiah T. App. No. 220,505. Schurz, C., Secretary. June 20, 1877. Vol. 5, p. 137.)

17. If a soldier dies of pneumonia ingrafted upon a previously existing incurable disease of lungs contracted in the service his widow is entitled to pension.

Clondman, Elizabeth W. No. 230,904. Schurz, C., Secretary. Apr. 28, 1878. Vol. 6, p. 158.

18. WIDOWS, COMMENCEMENT OF PENSIONS TO.

(1) A soldier of the war of the late rebellion died July 19, 1880. His widow's claim for pension was filed August 30, 1880, and it was allowed, and the pension was made to commence from that date, the date of filing.

On appeal; the honorable Secretary affirmed the action of this office in the premises, holding that the case was governed by the second section of the act of March 3, 1879, which, as he states, "provides that all pensions granted on account of a cause which originated since the 4th of March, 1861, if the application therefor is filed after the 1st of July, 1880, shall commence from the date of filing the application."

Hunter, Susan. Ctf. No. 192,692. Kirkwood, S. J., Secretary. Oct. 27, 1881. Vol. 8, p. 468.

(2) Soldier died April 13, 1880. His widow's claim was filed August 19, 1880, and her pension was made to commence from that date, as provided in the second section of the act of March 3, 1879. It was contended on appeal that, under the act to amend section 4702, Revised Stat-

WIDOWS—Continued.

utes, and for other purposes, approved August 7, 1882, the pension should commence from the date of her husband's death; but it was decided that the act referred to was not a re-enactment of section 4702, but simply amendatory thereof, and did not repeal the second section of the act of March 3, 1879, so far as it bore upon the commencement of widows' pensions; and "that the only change in previously existing law which was intended to be made by the first section of the act of August 7, 1882, was to change the date of commencement of the pension of minor children in the class of cases to which the amendment applies."

Kinyon, Phoebe. Ctf. No. 194,456. Teller, H. M., Secretary. Mar. 7, 1883. Vol. 10, p. 147.

Ray, Mary J. Ctf. No. 198,409. Teller, H. M., Secretary. May 6, 1884. Vol. 11, p. 248.

(3) Where a soldier at the time of his death had a claim for invalid pension pending on account of an injury to his back and loins which was subsequently rejected, and his widow was pensioned on account of his death from chronic diarrhœa, it was *held*, that inasmuch as the soldier in his declaration had not alleged any disability from chronic diarrhœa his widow was not entitled to pension for any period prior to his death.

See ARREARS, *par.* 13.

RULINGS OF THE COMMISSIONER OF PENSIONS.**RULING No. 86. April 7, 1885.**

A woman cannot receive pension as a widow and as a dependent mother at the same time. She can elect which one of the two claims she will perfect in case neither of said claims has been allowed.

Shields, Albert, mother of. App. No. 254,689.

RULING No. 108. May 26, 1885.

Soldier made application for pension June 26, 1880. His wife died February 19, 1882. He married again May 14, 1883, and died May 12, 1884, leaving four children by his first wife and with his invalid claim still pending. The soldier's second wife and widow made application for pension in her own right and for increase on account of three of the minor children December 19, 1884. The invalid claim was allowed and the accrued pension thereunder was made payable to the widow on her own voucher. Her claim was also allowed, together with increase on account of the three minor children as claimed, and the certificate was issued. Before payment had been made, however, it was learned that the widow, the second wife of the soldier and the claimant, had had only the nominal care and custody of the children of the soldier since his death, and that the means for their support had been furnished the claimant by the guardian of the children, the soldier's brother, out of the estate left by the soldier for that purpose. The Commissioner directed that payment of the widow's certificate be suspended, and that she be not allowed increase on account of the minors, under the first proviso

WIDOWS—Continued.

of section 4703, Revised Statutes, which expressly declares that the only condition upon which she could be allowed such increase is that she must be charged with their care and maintenance. Nominal care and custody is not enough. The law contemplates support and maintenance, which in this case was and is furnished by the guardian.

Ruby, Horace S., widow-of. Ctf. No. 214,561.

WIDOWS OF COLORED SOLDIERS.**Section 4705, Revised Statutes.**

The widows of colored and Indian soldiers and sailors who have died, or shall hereafter die, by reason of wounds or injuries received, or casualty received, or disease contracted, in the military or naval service of the United States, and in the line of duty, shall be entitled to receive the pension provided by law without other evidence of marriage than satisfactory proof that the parties were joined in marriage by some ceremony deemed by them obligatory, or habitually recognized each other as man and wife, and were so recognized by their neighbors, and lived together as such up to the date of enlistment, when such soldier or sailor died in the service, or, if otherwise, to date of death; and the children born of any marriage so proved shall be deemed and held to be lawful children of such soldier or sailor, but this section shall not be applicable to any claims on account of persons who enlist after the third day of March, one thousand eight hundred and seventy-three.

Sec. 11, 3 Mar., 1873; sec. 14, 14 July, 1864; sec. 14, 6 June, 1866; sec. 2, 15 June, 1866. As to "Indians," See sec. 11, 3 Mar., 1873.

DECISIONS OF THE SECRETARY OF THE INTERIOR.

1. The right of a colored widow to pension is not barred by the fact that she did not marry the soldier until after his enlistment.

Butler, Sarah. App. No. 136,817. Delano, C.; Secretary. Sept. 19, 1874. Vol. 3, p. 313.

2. A colored widow who alleges marriage to a soldier prior to his enlistment is not entitled to pension as such widow unless cohabitation with said soldier up to the date of said enlistment is shown.

Statesman, Samuel, minors of. App. No. 206,001. Delano, C., Secretary. Feb. 17, 1875. Vol. 3, p. 462.

WITHHOLDING OF PENSION MONEY.

See OVERPAYMENT.

WITNESSES, COMPETENCY OF.

See EVIDENCE.



APPENDIX.

LAWS OF THE UNITED STATES

RELATING TO

ARMY AND NAVY PENSIONS,

ENACTED BETWEEN MARCH 4, 1861, AND MARCH 3, 1873, MOST OF
WHICH WERE RE-ENACTED IN THE REVISED STATUTES.



APPENDIX.

LAWS OF THE UNITED STATES RELATING TO ARMY AND NAVY PENSIONS.

AN ACT to authorize the employment of volunteers to aid in enforcing the laws and protecting public property, approved July 22, 1861.—
(Revised Statutes, vol. xii, chap. ix.)

* * * * *

SEC. 6. *And be it further enacted*, That any volunteer who may be received into the service of the United States under this act, and who may be wounded or otherwise disabled in the service, shall be entitled to the benefits which have been or may be conferred on persons disabled in the regular service, and the widow, if there be one, and if not, the legal heirs of such as died or may be killed in service, in addition to all arrears of pay and allowances, shall receive the sum of one hundred dollars.

* * * * *

Approved July 22, 1861.

AN ACT authorizing the Secretary of the Interior to strike from the pension rolls the names of such persons as have taken up arms against the Government, or who may have in any manner encouraged the rebels, approved February 4, 1862.—(Revised Statutes, vol. xii, chap. xviii.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to strike from the pension rolls the names of all such persons as have or may hereafter take up arms against the Government of the United States, or who have in any manner encouraged the rebels, or manifested a sympathy with their cause.

Act under which pensioners in States in rebellion were dropped from the rolls.
See sec. 4716, R. S.

Approved February 4, 1862.

AN ACT to secure to the officers and men actually employed in the Western Department, or Department of Missouri, their pay, bounty, and pension, approved March 25, 1862.—(Revised Statutes, vol. xii, chap. xlix.)

Provision for pay and bounty to officers and men employed in the Department of the West, or of the Missouri, prior to March 25, 1862, and for pension to those who have been wounded or incapacitated for service while so employed.
See sec. 4722, R. S.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized and required to allow and pay to the officers, non-commissioned officers, musicians, and privates who have been heretofore actually employed in the military service of the United States, whether mustered into actual service or not, where their services were accepted and actually employed by the generals who have been in command of the Department of the West or the Department of the Missouri, the pay and bounty as in cases of regular enlistment.

SEC. 2. *And be it further enacted,* That the officers, non-commissioned officers, musicians, and privates so employed who may have been wounded or incapacitated for service, shall be entitled to and receive the pension allowed for such disability: *Provided,* That the length and character of their enlistment and service be such as to entitle them under existing laws to such pension.

* * * * *

Approved March 25, 1862.

AN ACT to grant pensions, approved July 14, 1862.—(Revised Statutes, vol. xii, chap. clxvi.)

[To provide for pensions to invalids of the war of the rebellion and their relatives, &c.]

Persons entitled to invalid pension.
Sec. 4692; sec. 4693, R. S.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That if any officer, non-commissioned officer, musician, or private of the Army, including regulars, volunteers, and militia, or any officer, warrant or petty officer, musician, seaman, ordinary seaman, flotillaman, marine, clerk, landsman, pilot, or other person in the Navy or Marine Corps, has been, since the fourth day of March, eighteen hundred and sixty-one, or shall hereafter be, disabled by reason of any wound received or disease contracted while in the service of the United States, and in the line of duty, he shall, upon making due proof of the fact, according to such forms and regulations as are or may be provided by or in pursuance of law, be placed upon the list of invalid pensions of the United States, and be entitled to receive, for the highest rate of disability, such pension as is hereinafter provided in such cases, and for an inferior disability an amount pro-

Proportionate to disability, and during its existence.
Sec. 4695, R. S.

portionate to the highest disability, to commence as hereinafter provided, and continue during the existence of such disability. The pension for a total disability for officers, non-commissioned officers, musicians, and privates employed in the military service of the United States, whether regulars, volunteers, or militia, and in the Marine Corps, shall be as follows, viz: Lieutenant colonel, and all officers of a higher rank, thirty dollars per month; major, twenty-five dollars per month; captain, twenty dollars per month; first lieutenant, seventeen dollars per month; second lieutenant, fifteen dollars per month; and non-commissioned officers, musicians, and privates, eight dollars per month. The pension for total disability for officers, warrant or petty officers, and others employed in the naval service of the United States, shall be as follows, viz: Captain, commander, surgeon, paymaster, and chief engineer, respectively ranking with commander by law, lieutenant commanding, and master commanding, thirty dollars per month; lieutenant, surgeon, paymaster, and chief engineer, respectively ranking with lieutenant by law, and passed assistant surgeon, twenty-five dollars per month; professor of mathematics, master, assistant surgeon, assistant paymaster, and chaplain, twenty dollars per month; first assistant engineers and pilots, fifteen dollars per month; passed midshipman, midshipman, captain's and paymaster's clerk, second and third assistant engineer, master's mate, and all warrant officers, ten dollars per month; all petty officers, and all other persons before named employed in the naval service, eight dollars per month; and all commissioned officers, of either service, shall receive such and only such pension as is herein provided for the rank in which they hold commissions.

Rates in Army.

Rates in Navy.
Sec. 4093, R. S.

But one pension.

SEC. 2. *And be it further enacted*, That if any officer or other person named in the first section of this act has died since the fourth day of March, eighteen hundred and sixty-one, or shall hereafter die, by reason of any wound received or disease contracted while in the service of the United States, and in the line of duty, his widow, or, if there be no widow, his child or children under sixteen years of age, shall be entitled to receive the same pension as the husband or father would have been entitled to had he been totally disabled, to commence from the death of the husband or father, and to continue to the widow during her widowhood, or to the child or children until they severally attain to the age of sixteen years, and no longer.

Widow or children, from death of husband or father, during widowhood or minority.
Sec. 4702, R. S.
Sec. 8, 2 Mar 1873.

SEC. 3. *And be it further enacted*, That where any officer

or other person named in the first section of this act shall have died subsequently to the fourth day of March, eighteen hundred and sixty-one, or shall hereafter die, by reason of any wound received or disease contracted while in the service of the United States, and in the line of duty, and has not left nor shall not leave a widow nor legitimate child, but has left or shall leave a mother, who was dependent upon him for support, in whole or in part, the mother shall be entitled to receive the same pension as such officer or other person would have been entitled to had he been totally disabled; which pension shall commence from the death of the officer or other person dying as aforesaid: *Provided, however,* That if such mother shall herself be in receipt of a pension as a widow, in virtue of the provisions of the second section of this act, in that case no pension or allowance shall be granted to her on account of her son, unless she gives up the other pension or allowance: *And provided further,* That the pension given to a mother on account of her son shall terminate on her remarriage: *And provided further,* That nothing herein shall be so construed as to entitle the mother of an officer or other person dying, as aforesaid, to more than one pension at the same time under the provisions of this act.

If no widow or child, dependent mother. (See sec. 12, act of June 6, 1866, and sec. 1, act of July 27, 1868, for provision as to fathers and brothers.) *Provided, no pension both as widow and mother.*

Sec. 13, act 3 Mar., 1873; sec. 4707, R. S.

Terminates at remarriage.

Not more than one pension.

SEC. 4. *And be it further enacted,* That where any officer or other person named in the first section of this act shall have died subsequently to the fourth day of March, eighteen hundred and sixty-one, or shall hereafter die, by reason of any wound received or disease contracted while in the service of the United States, and in the line of duty, and has

If no widow, child, or mother, orphan dependent sisters, until sixteen. (See sec. 12, act of June 6, 1866, and sec. 1, act of July 27, 1868, for provision as to fathers and brothers.)

Sec. 13, act 3 Mar., 1873; sec. 4707, R. S.

not left or shall not leave a widow, nor legitimate child, nor mother, but has left or may leave an orphan sister or sisters, under sixteen years of age, who were dependent upon him for support, in whole or in part, such sister or sisters shall be entitled to receive the same pension as such officer or other person would have been entitled to had he been totally disabled; which pension to said orphan shall commence from the death of the officer or other person dying as aforesaid, and shall continue to the said orphans until they severally arrive at the age of sixteen years, and no longer: *Provided, however,* That nothing herein shall be so

Only one pension.

construed as to entitle said orphans to more than one pension at the same time under the provisions of this act: *And provided further,* That no moneys shall be paid to the widow or children, or any heirs of any deceased soldier, on account of bounty, back pay, or pension, who have in any way been

engaged in or who have aided or abetted the existing rebellion in the United States; but the right of such disloyal widow or children, heir or heirs of such soldier, shall be vested in the loyal heir or heirs of the deceased, if any there be.

Loyalty required.

SEC. 5. *And be it further enacted*, That pensions which may be granted in pursuance of the provisions of this act, to persons who may have been, or shall be, employed in the military or naval service of the United States, shall commence on the day of the discharge of such persons in all cases in which the application for such *provisions* [pensions] is filed within one year after the date of said discharge; and in cases in which the application is not filed during said year, pensions granted to persons employed as aforesaid shall commence on the day of the filing of the application.

Commencement of pension, when application filed within one year. (Repealed by sec. 6, act of July 27, 1868.)

SEC. 6. *And be it further enacted*, That the fees of agents and attorneys for making out and causing to be executed the papers necessary to establish a claim for a pension, bounty, and other allowance before the Pension Office under this act, shall not exceed the following rates: For making out and causing to be duly executed a declaration by the applicant, with the necessary affidavits, and forwarding the same to the Pension Office, with the requisite correspondence, five dollars. In cases wherein additional testimony is required by the Commissioner of Pensions, for each affidavit so required and executed and forwarded (except the affidavits of surgeons, for which such agents and attorneys shall not be entitled to any fees), one dollar and fifty cents.

Agents' fees. (Repealed by sec. 12, act of July 4, 1864. See also act of July 8, 1870.) See Fees of Agents and Attorneys, ante.

SEC. 7. *And be it further enacted*, That any agent or attorney who shall, directly or indirectly, demand or receive any greater compensation for his services under this act than is prescribed in the preceding section of this act, or who shall contract or agree to prosecute any claim for a pension, bounty, or other allowance under this act, on the condition that he shall receive a per centum upon, or any portion of, the amount of such claim, or who shall wrongfully withhold from a pensioner or other claimant the whole or any part of the pension or claim allowed and due to such pensioner or claimant, shall be deemed guilty of a high misdemeanor, and upon conviction thereof shall for every such offense be fined not exceeding three hundred dollars or imprisoned at hard labor not exceeding two years, or both, according to the circumstances and aggravations of the offense.

Penalties for overcharge. (Repealed by sec. 13, act of July 4, 1864. See also act of July 8, 1870.) See Fees of Agents and Attorneys, ante.

Examining surgeon's fees—how paid.
See Examining Surgeons.

SEC. 8. *And be it further enacted*, That the Commissioner of Pensions be, and he is hereby, empowered to appoint, at his discretion, civil surgeons to make the biennial examinations of pensioners which are or may be required to be made by law, and to examine applicants for invalid pensions, where he shall deem an examination by a surgeon to be appointed by him necessary; and the fee for each of such examinations, and the requisite certificate thereof, shall be one dollar and fifty cents, which fee shall be paid to the surgeon by the person examined, for which he shall take a receipt and forward the same to the Pension Office; and upon the allowance of the claim of the person examined, the Commissioner of Pensions shall furnish to such persons an order on the pension agent of his State for the amount of the surgeon's fees.

Instructions and forms.
See Regulations.
Sec. 4748, R. S.

SEC. 9. *And be it further enacted*, That the Commissioner of Pensions, on application made to him in person or by letter by any claimants or applicants for pension, bounty, or other allowance, required by law to be adjusted and paid by the Pension Office, shall furnish such claimants, free of all expense or charge to them, all such printed instructions and forms as may be necessary in establishing and obtaining said claim; and in case such claim is prosecuted by an agent or attorney of such claimant or applicant, on the issue of a certificate of pension or the granting of a bounty or allowance, the Commissioner of Pensions shall forthwith notify the applicant or claimant that such certificate has been issued, or allowance made, and the amount thereof.

Persons on gunboats, &c., not mustered.
See Gunboat, Ram Fleet, and Mississippi Marine Brigade.

SEC. 10. *And be it further enacted*, That the pilots, engineers, sailors, and crews upon the gunboats and war vessels of the United States, who have not been regularly mustered into the service of the United States, shall be entitled to the same bounty allowed to persons of corresponding rank in the naval service, provided they continue in service to the close of the present war; and all persons serving as aforesaid, who have been or may be wounded or incapacitated for service, shall be entitled to receive for such disability the pension allowed by the provisions of this act to those of like rank, and each and every such person shall receive pay according to corresponding rank in the naval service: *Provided*, That no person receiving pension or bounty under the provisions of this act shall receive either pension or bounty for any other service in the present war.

No pension or bounty for other service in same war.

Widows and heirs of persons designated in sec. 10. (Repealed by sec. 4, act of July 4, 1864.)

SEC. 11. *And be it further enacted*, That the widows and heirs of all persons described in the last preceding section who have been or may be employed as aforesaid, or who

have been or may be killed in battle, or of those who have died or shall die of wounds received while so employed, shall be paid the bounty and pension allowed by the provisions of this act, according to rank, as provided in the last preceding section.

SEC. 12. *And be it further enacted*, That the Secretary of the Interior be, and he is hereby, authorized to appoint a special agent for the Pension Office, to assist in the detection of frauds against the pension laws, to cause persons committing such frauds to be prosecuted, and to discharge such other duties as said Secretary may require him to perform; which said agent shall receive for his services an annual salary of twelve hundred dollars, and his actual traveling expenses incurred in the discharge of his duties shall be paid by the Government.

(Repealed by sec. 4, act of July 4, 1864.)
See Special Examiners and Special Examinations.

SEC. 13. *And be it further enacted*, That all acts and parts of acts inconsistent with the provisions of this act be, and the same are hereby, repealed.

Repealing clause.

Approved July 14, 1862.

JOINT RESOLUTION to grant pensions to masters and other officers upon the gunboats in the service of the United States, approved July sixteen, eighteen hundred and sixty-two. (Revised Statutes, Vol. XII, No. 59.)

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the masters serving on board of gunboats employed in the service of the United States shall be entitled to all the benefits, including bounty and pension, provided for in an act entitled "An act to grant pensions," passed during the present session of Congress, and the widows, mothers, and heirs of such officers shall be entitled to all the benefits of said act.

Title of masters, &c., and their widows, &c.
See Gunboat, Ram Fleet, and Mississippi Marine Brigade, and Navy.

Approved July 16, 1862.

AN ACT to prevent and punish frauds upon the Government of the United States, approved March second, eighteen hundred and sixty-three.

Re-enacted in section 4746, Revised Statutes.

See FORGERY.

AN ACT to amend section nine of the act approved July seventeenth, eighteen hundred and sixty-two, entitled "An act to define the pay and emoluments of certain officers of the Army, and for other purposes."

* * * * *

See sec. 4710,
R. S.

SEC. 2. *And be it further enacted*, That the act approved July fourteenth, eighteen hundred and sixty-two, entitled "An act to grant pensions," is hereby so amended as to include chaplains in the regular and volunteer forces of the Army: *Provided*, That the pension to which a chaplain shall be entitled for a total disability shall be twenty dollars per month, and all the provisions of the act to which this section is an amendment shall apply to and embrace the widows, children, mothers, and sisters of chaplains of the land forces who have died since the fourth day of March, eighteen hundred and sixty-one, or shall die of wounds or disease contracted in the service of the United States, and while such chaplains are or shall be in the line of their duty.

* * * * *

Approved April 9, 1864.

AN ACT supplementary to an act entitled "An act to grant pensions," approved July fourteenth, eighteen hundred and sixty-two; approved July fourth, eighteen hundred and sixty-four (Revised Statutes, vol. xiii, chap. cxxlvii).

Biennial examinations by an appointed or commissioned surgeon; certificates of unappointed surgeons, when to be accepted.

See Examining Surgeons.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the biennial examinations of pensioners required by an act approved March three, eighteen hundred and fifty-nine, may be made by one surgeon only, provided he is a surgeon of the Army or Navy, or an examining surgeon duly appointed by the Commissioner of Pensions; nor shall the biennial certificate of two unappointed civil surgeons be accepted in any case, except upon satisfactory evidence that an examination by a commissioned or duly appointed surgeon is impracticable.

Surgeon's fees. (See sec. 8 of this act, and sec. 8, act of July 14, 1862.)

See Examining Surgeons.

SEC. 2. *And be it further enacted*, That all fees paid to examining surgeons for biennial examinations, or for examinations especially ordered, as provided by the eighth section of the act to grant pensions, approved July fourteen, eighteen hundred and sixty-two, shall be refunded by the agent for paying pensions in the district within which the pensioner or claimant resides, out of any money appropriated for the payment of pensions, under such regulations as the Commissioner of Pensions may prescribe.

SEC. 3. *And be it further enacted*, That declarations of pension claimants shall be made before a court of record, or before some officer thereof having custody of its seal, said officer being hereby fully authorized and empowered to administer and certify any oath or affirmation relating to any pension or application therefor: *Provided*, That the Commissioner of Pensions may designate, in localities more than twenty-five miles distant from any place at which such court is holden, persons duly qualified to administer oaths, before whom declarations may be made and testimony taken.

Declarations before a court of officer; exceptions to this requirement.
See Declarations.
See also sec. 4714, R. S.

SEC. 4. *And be it further enacted*, That section twelve of the act to grant pensions, approved July fourteenth, eighteen hundred and sixty-two, is hereby repealed. And the Commissioner of Pensions is authorized and empowered to detail, from time to time, clerks in his office to investigate suspected attempts at fraud on the Government through the Pension Office, and to aid in prosecuting any person so offending, with such additional compensation as is customary in cases of special service.

Special service.
See Special Examiners and Special Examinations.
Also sec. 4744, R. S.

SEC. 5. *And be it further enacted*, That all persons now by law entitled to a less pension than hereafter specified, who shall have lost both feet in the military service of the United States, and in the line of duty, shall be entitled to a pension of twenty dollars per month; and those who, under the same conditions, have lost both hands or both eyes, shall be entitled to a pension of twenty-five dollars per month.

(Repealed by sec. 1, act of June 6, 1898.)
See Rates of Pensions.
Also sec. 4098, R. S., and amendments thereto.

SEC. 6. *And be it further enacted*, That no pension claim now on file, unless prosecuted to a successful issue within three years from the passage of this act, and no claim hereafter filed, not thus prosecuted to a successful issue within five years from the date of such filing, shall be admitted without satisfactory record evidence from the War Department to establish the same; and in every case in which a claim for pension shall have been filed more than three years after the discharge or decease of the party on whose account the claim is made, the pension, if allowed, shall commence from the date of filing the last paper in said case by the party prosecuting the same.

When lack of satisfactory record evidence is a bar. (Last clause of this section repealed by sec. 6, act of July 27, 1898.)
Entire section repealed by acts of January 25 and Mar. 3, 1879.
See Arrears.

SEC. 7. *And be it further enacted*, That on the remarriage of any widow receiving a pension, such pension shall terminate, and shall not be renewed should she again become a widow.

Widow's pension not renewable after remarriage.
See Widows.

SEC. 8. *And be it further enacted*, That examining surgeons, duly appointed by the Commissioner of Pensions, may be required by him, from time to time, as he shall deem for the interests of the Government, to make special exami-

See Examining Surgeons.

Special examinations.

Appeal to board of surgeons.

Fees.

nations of pensioners on the rolls of their respective districts, and such examinations shall have precedence over previous examinations, whether special or biennial; but when injustice is alleged to have been done by any examination so ordered, the Commissioner of Pensions may, at his discretion, select a board of three duly appointed examining surgeons, who shall meet at a place to be designated by him, and shall review such cases as may be ordered before them on appeal from any special examination as aforesaid, and the decision of such board shall be final on the question so submitted thereto. The compensation of all such surgeons shall not exceed that which has been customarily allowed in such cases, and shall be paid out of any appropriations made for the payment of pensions, in the same manner as the ordinary fees of appointed surgeons are or may be authorized to be paid.

Non-enlisted men and their widows entitled, provided claim completed before July 4, 1867. (Sec. 11, act of July 27, 1868, extend time for completion to July 4, 1872.)

See par. 3, sec. 4693, R. S.

SEC. 9. *And be it further enacted*, That those persons, not enlisted soldiers in the Army, who volunteered for the time being to serve with any regularly organized military or naval force of the United States, or where persons otherwise volunteered and rendered service in any engagement with rebels or Indians since the fourth day of March, eighteen hundred and sixty-one, shall, if they have been disabled in consequence of wounds received in battle in such temporary service, be entitled to the same benefits of the pension laws as those who have been regularly mustered into the United States service; and the widows or other dependents of any such persons as may have been killed in the temporary service aforesaid shall be entitled to pensions in the same manner as they would have been had such persons been regularly mustered: *Provided*, That no claim under this section shall be valid unless presented and prosecuted to a successful issue within three years from and after the passage of this act. All such claims shall be adjudicated under such special rules and regulations as the Commissioner of Pensions may prescribe most effectually to guard against fraud.

Pension of widow, or dependent relative, when invalid's application was pending at death, to commence when his would have commenced had he survived.

SEC. 10. *And be it further enacted*, That if any person entitled to an invalid pension under the provisions of the act granting pensions, approved July fourteen, eighteen hundred and sixty-two, has died, or shall hereafter die while an application for such pension is pending, and having a widow or dependent relative entitled to receive a pension by reason of his services and death, as provided in said act, then the pension to such widow or other person shall commence from the date at which the decedent's invalid pen-

sion would have commenced had he survived, subject to the conditions of this act and the act to which this is amendatory.

SEC. 11. *And be it further enacted*, That all enlisted soldiers in the Army who shall have become disabled in the service, whether they shall have been regularly mustered in or not, shall be entitled to the same benefits of the pension laws as those who have been regularly mustered into the United States service; and the widows or other dependents entitled to pensions by law, as prescribed by the act of July fourteen eighteen hundred and sixty-two, of any such soldier who may have been killed, or shall have died, or shall hereafter die, by reason of any wound received or disease contracted while in said service and in the line of duty, shall be entitled to the same pension as though such soldier had been regularly mustered into the service.

Muster of private not required.

SEC. 12. *And be it further enacted*, That the fees of agents and attorneys for making out and causing to be executed the papers necessary to establish a claim for a pension, bounty, and other allowance before the Pension Office, under this act, shall not exceed the following rates: For making out and causing to be duly executed a declaration by the applicant, with the necessary affidavits, and forwarding the same to the Pension Office, with the requisite correspondence, ten dollars; which sum shall be received by such agent or attorney in full for all services in obtaining such pension, and shall not be demanded or received in whole or in part until such pension shall be obtained; and the sixth and seventh sections of an act entitled "An act to grant pensions," approved July fourteenth, eighteen hundred and sixty-two, are hereby repealed.

Fees of agents and attorneys. (See sec. 4, act of June 6, 1866; also, act of July 8, 1870.)

SEC. 13. *And be it further enacted*, That any agent or attorney who shall, directly or indirectly, demand or receive any greater compensation for his services under this act than is prescribed in the preceding sections of this act, or who shall contract or agree to prosecute any claim for a pension, bounty, or other allowance, under this act, on the condition that he shall receive a per centum upon any portion of the amount of such claim, or who shall wrongfully withhold from a pensioner or other claimant the whole or any part of the pension or claim allowed and due to such pensioner or claimant, shall be deemed guilty of a high misdemeanor, and upon conviction thereof shall, for every such offense, be fined not exceeding three hundred dollars, or imprisoned at hard labor not exceeding two years, or

Penalties for overcharge. (Superseceded by act of July 8, 1870.)

both, according to the circumstances and aggravations of the offense.

Proof of marriage in cases of colored claimants. (Sec. 14, act of June 6, 1866, repeals this.)

SEC. 14. *And be it further enacted*, That the widows and children of colored soldiers who have been or who may be hereafter killed, or who have died or may hereafter die, of wounds received in battle, or who have died or may hereafter die of disease contracted in the military service of the United States, and in the line of duty, shall be entitled to receive the pensions now provided by law, without other proof of marriage than that the parties had habitually recognized each other as man and wife, and lived together as such for a definite period next preceding the soldier's enlistment, not less than two years, to be shown by the affidavits of credible witnesses: *Provided, however*, That such widow and children are free persons: *Provided, further*, That if such parties resided in any State in which their marriage may have been legally solemnized, the usual evidence shall be required.

SEC. 15. *And be it further enacted*, That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Approved July 4, 1864.

AN ACT supplementary to the several acts relating to pensions, approved March three, eighteen hundred and sixty-five. (Revised Statutes, vol. xiii, chap. lxxxiv.)

Invalid not entitled to pension while drawing full pay from Government. (Repealed by sec. 5, act of June 6, 1866.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no invalid pensioner, now or hereafter in the service of the United States, shall be entitled to draw a pension for any period of time during which he is or shall be entitled to the full pay or salary which an able-bodied person discharging like duties to the Government is allowed by law.

Acting assistant or contract surgeons, as assistant surgeons, and their relatives.

SEC. 2. *And be it further enacted*, That acting assistant or contract surgeons, disabled by any wound received or disease contracted while actually performing the duties of assistant surgeons or acting assistant surgeons with any military force in the field or in transitu, shall be entitled to the benefits of the pension laws in the same manner as if they had actually been mustered into the service with the rank of "assistant surgeon;" and the widows, minor children, or the dependents of acting assistant surgeons dying while performing the duty aforesaid, shall, in like manner, be entitled to the same benefits of the pension laws as if the deceased had been actually mustered into the service as assistant surgeons.

SEC. 3. *And be it further enacted*, That all persons now by law entitled to a less pension than hereafter specified, who shall have lost one foot and one hand in the military service of the United States, and in the line of *his* [their] duty, shall be entitled to twenty dollars per month.

SEC. 4. *And be it further enacted*, That if any officer or other person named in the first section of an act entitled "An act to grant pensions," approved July fourteen, eighteen hundred and sixty-two, has died since the fourth day of March, eighteen hundred and sixty-one, or shall hereafter die by reason of any wound received or disease contracted while in the service of the United States, and in the line of duty, his widow, or if there be no widow, or in case of her death or marriage without payment to her of any part of the pension hereinafter mentioned, his child or children under sixteen years of age, shall be entitled to receive the same pension as the husband or father would have been entitled to under said act had he been totally disabled, to commence from the death of the husband or father, and to continue to the widow during her widowhood, or to the child or children until they severally attain to the age of sixteen years, and no longer: *Provided*, That when such pension has been or shall hereafter be paid to the widow, such child or children shall only be entitled to receive the pension, to commence from the death or marriage of such widow, and [to] continue as aforesaid: *Provided further*, That nothing herein contained shall be construed to repeal or modify the tenth section of an act entitled "An act supplementary to 'An act to grant pensions,' approved July fourteenth, eighteen hundred and sixty-two," approved July fourth, eighteen hundred and sixty-four, and said section is hereby declared to be in full force and effect in all cases arising under this act to which said section is applicable, saving and excepting such cases as are embraced in the preceding proviso.

Approved March 3, 1865.

AN ACT supplementary to the several acts relating to pensions, approved June six, eighteen hundred and sixty-six (Revised Statutes, vol. xiv, chap. cvi).

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section five of an act entitled "An act supplementary to an act entitled 'An act to grant pensions,' approved July fourteenth, eighteen hundred and sixty-two," approved July fourth, eighteen hundred and sixty-four, and section three

(Repealed by sec. 1, act of June 6, 1866.)

Children, if mother has remarried without payment to her, to draw from father's death; if she has been paid from her death, or remarriage. Proviso affirms sec. 10, act of July 4, 1864. (See sec. 6, act July 25, 1866.)

Invalids—increased rates of pension. (This section is substituted for sec. 5, act of July 4, 1864, and sec. 3, act of March 3, 1865. See sec. 5, act of July 25, 1866.)

of an act entitled "An act supplementary to the several acts relating to pensions," approved March third, eighteen hundred and sixty-five, be, and the same are hereby, repealed, and the following shall stand in lieu thereof: That,

See Rates of Pension.

from and after the passage of this act, all persons by law entitled to a less pension than hereinafter specified, who, while in the military or naval service, and in line of duty, shall have lost the sight of both eyes, or who shall have lost both hands, or been permanently and totally disabled in the same, or otherwise so permanently and totally disabled as to render them utterly helpless, or so nearly so as to require the constant personal aid and attendance of another person, shall be entitled to a pension of twenty-five dollars per month; and all persons who, under like circumstances, shall have lost both feet, or one hand and one foot, or been totally and permanently disabled in the same, or otherwise so disabled as to be incapacitated for performing any manual labor, but not so much so as to require constant personal aid and attention, shall be entitled to a pension of twenty dollars per month; and all persons who, under like circumstances, shall have lost one hand or one foot, or been totally and permanently disabled in the same, or otherwise so disabled as to render their inability to perform manual labor equivalent to the loss of a hand or a foot, shall be entitled to a pension of fifteen dollars per month.

Pledge, &c., of pension, void.

See sec. 4745, R. S.

SEC. 2. *And be it further enacted*, That any pledge, mortgage, sale, assignment, or transfer of any right, claim, or interest in any pension which has been, or may hereafter be, granted, shall be void and of no effect; and any person acting as attorney to receive and receipt for money for and in behalf of any person entitled to a pension shall, before receiving said money, take and subscribe an oath, to be filed with the pension agent, and by him to be transmitted, with the vouchers now required by law, to the proper accounting officer of the Treasury, that he has no interest in said money by any pledge, mortgage, sale, assignment, or transfer, and that he does not know or believe that the same has been so disposed of to any person; and any person who shall falsely take the said oath shall be guilty of perjury, and, on conviction, shall be liable to the pains and penalties of perjury.

Oath of attorney.

Perjury.

Penalty for post-dating vouchers. (See act of July 8, 1870.)

SEC. 3. *And be it further enacted*, That any person who shall present or cause to be presented at any pension agency any power of attorney, or other paper required as a voucher in drawing a pension, which paper shall bear a date subse-

quent to that on which it was actually signed or executed, such person so offending shall be deemed guilty of a high misdemeanor, and shall, on conviction thereof, be punished by a fine not exceeding five hundred dollars, or by imprisonment for a term not exceeding three years, or by both, at the discretion of the court before whom such conviction shall be had; and no sum of money due, or to become due, to any pensioner under the laws aforesaid, shall be liable to attachment, levy, or seizure by or under any legal or equitable process whatever, whether the same remains with the Pension Office, or any officer or agent thereof, or is in course of transmission to the pensioner entitled thereto, but shall inure wholly to the benefit of such pensioner.

Sec. 4746, R. S.

Protection pension money in transit.
Sec. 4747, R. S.

SEC. 4. *And be it further enacted*, That no claim agent or other person shall hereafter charge or receive more than twenty-five cents for preparing the papers necessary to enable a pensioner to receive a semi-annual payment of his pension, nor shall any pension agent charge or receive more than fifteen cents for administering an oath to a pensioner, or his attorney-in-fact, under a penalty of five dollars in each case.

Fee for preparing vouchers.
(Superseded by act of July 8, 1870.)
Sec. Payment of Pensions.

SEC. 5. *And be it further enacted*, That section one of an act entitled "An act supplementary to the several acts relating to pensions," approved March three, eighteen hundred and sixty-five, is hereby repealed.

Repeals sec. 1, act of March 2, 1865.

SEC. 6. *And be it further enacted*, That if any person entitled to an invalid pension has died since March four, eighteen hundred and sixty-one, or shall hereafter die while an application for such pension is pending, and after the proof has been completed, leaving no widow and no minor child under sixteen years of age, his heirs or legal representatives shall be entitled to receive the accrued pension to which the applicant would have been entitled had the certificate been issued before his death.

Accrued pension to go to heirs.
(See sec. 9, act of July 27, 1868.)
See Accrued Pension.

SEC. 7. *And be it further enacted*, That in all cases when a commission shall have been regularly issued to any person in the military or naval service who shall have died or been disabled while in the line of duty, after the date of such commission, and before being mustered, such officer or other person entitled to a pension for such death or disability by existing laws shall receive a pension corresponding to his rank, as determined by such commission, the same as if he had been mustered: *Provided*, That this section shall not apply to any officer who shall have willfully neglected or refused to be so mustered.

Commissions regularly issued to settle rank.

Sec. 4696, R. S.

See Rank.

Proviso.

On sick leave or furlough same as if in field or hospital.
Sec. 4700, R. S.

SEC. 8. *And be it further enacted*, That officers absent on sick leave, and enlisted men absent on sick furlough, shall be regarded in the administration of the pension laws in the same manner as if they were in the field or hospital.

Period of service.
Sec. 4701, R. S.

SEC. 9. *And be it further enacted*, That the period of service of all persons entitled to the benefits of the pension laws, or on account of whose death any person may become entitled to a pension, shall be construed to extend to the time of disbanding the organization to which such persons belonged, or until their actual discharge for other cause than the expiration of the service of such organization.

Certain enlisted men to be pensioned as privates.

SEC. 10. *And be it further enacted*, That enlisted men employed as teamsters, wagoners, artificers, hospital stewards, farriers, saddlers, and all other enlisted men, however employed in the service of the Army or Navy, not specifically mentioned in the first section of an act entitled "An act to grant pensions," approved July fourteen, eighteen hundred and sixty-two, shall be regarded, in the administration of the pension laws, as non-commissioned officers or privates.

Abandonment, &c. (See sec. 8, act of July 27, 1868.)
See sec. 4708, R. S.

SEC. 11. *And be it further enacted*, That if any officer, soldier, or seaman shall have died of wounds received or of disease contracted in the line of duty in the military or naval service of the United States, leaving a widow and a child or children under the age of sixteen years, and it shall be duly certified under seal, by any court having probate jurisdiction, that satisfactory evidence has been produced before such court that the widow aforesaid has abandoned the care of such child or children, or is an unsuitable person, by reason of immoral conduct, to have the custody of the same, then no pension shall be allowed to such widow until said minor child or children shall have become sixteen years of age, any previous enactment to the contrary notwithstanding, and the minor child or children aforesaid shall be pensioned in the same manner as if no widow had survived the said officer, soldier, or seaman, and such pension may be paid to the regularly authorized guardian of such minor or minors.

Provisions of sections 3 and 4, act of July 14, 1862, extended to fathers and brothers, respectively. (See sec. 1, act of July 27, 1868.)
Sec. 4707, R. S.

SEC. 12. *And be it further enacted*, That section four of an act entitled "An act to grant pensions," approved July fourteen, eighteen hundred and sixty-two, is hereby so amended that the provisions thereof shall apply to and include the orphan brother or brothers, as well as sister or sisters, under sixteen years of age, and the father as well as mother of a deceased officer or other person named in section one of the above-entitled act, who were dependent

upon him for support in whole or in part, subject to the same limitations and restrictions.

SEC. 13. *And be it further enacted*, That nothing in this or any other act shall be so construed as to repeal or modify the sixth section of an act entitled "An act supplementary to 'An act to grant pensions,' approved July fourteenth, eighteen hundred and sixty-two," approved July fourth, eighteen hundred and sixty-four, or to entitle a person to receive more than one pension at the same time; and in every case in which a claim for pension shall not have been filed within three years after the discharge or decease of the party on whose account the claim is made, the pension, if allowed, shall commence from the date of filing the last paper in said case by the party prosecuting the same.

Sec. 6, act of July 4, 1864, reaffirmed and only one pension allowed.
Sec. 4715, R. S.

See sec. 6, act of July 27, 1882.

Repealed.

See acts of January 25 and March 3, 1879.

SEC. 14. *And be it further enacted*, That the fourteenth section of an act entitled "An act supplementary to an act entitled 'An act to grant pensions,' approved July fourteenth, eighteen hundred and sixty-two," approved July fourth, eighteen hundred and sixty-four, be, and the same is hereby, repealed; and that the widows and children of colored soldiers and sailors who have been or may be hereafter killed, or who have died or may hereafter die of wounds received or of disease contracted in the military or naval service of the United States, and in the line of duty, shall be entitled to receive the pensions, bounty, and back pay provided by law, without other evidence of marriage than proof satisfactory to the Commissioner of Pensions that the parties had habitually recognized each other as man and wife and lived together as such; and the children born of any marriage so proved shall be deemed and taken to be the children of the soldier or sailor party thereto.

Cohabitation proof of marriage and of legitimacy of children in cases of colored claimants. (This section repeals sec. 14, act of July 4, 1864.)
Sec. 4706, R. S.

Approved June 6, 1866.

A RESOLUTION respecting bounties to colored soldiers, and the pensions, bounties, and allowances to their heirs, approved June fifteenth, eighteen hundred and sixty-six.—(Revised Statutes, vol. xiv, No. 46.)

* * * * *

SEC. 2. *And be it further resolved*, That in determining who is or was the wife, widow, or heirs of any colored soldier, evidence that he and the woman claimed to be his wife or widow were joined in marriage by some ceremony deemed by them obligatory; followed by their living together as husband and wife up to time of enlistment, shall be deemed sufficient proof of such marriage for the purpose of securing any arrears of pay, pension, or other allowances due any colored

What to be sufficient proof of marriage of colored soldier, to secure arrears of pay, &c., due at his death.
Sec. 4705, R. S.

Issue of such marriage to be lawful heirs.

soldier at the time of his death; and the children born of any such marriage shall be held and taken to be the lawful children and heirs of such soldier.

Approved June 15, 1866.

AN ACT increasing the pensions of widows and orphans, and for other purposes, approved July twenty-fifth, eighteen hundred and sixty-six. — (Revised Statutes, vol. xiv, chap. ccxxxv.)

Provost marshals, &c.
Par. 5, sec. 4003, R. S.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of the pension laws are hereby extended to and made to include provost marshals, deputy provost marshals, and enrolling officers, who have been killed or wounded in the discharge of their duties; and for the purpose of determining the amount of pension to which such persons and their dependents shall be entitled, provost marshals shall be ranked as captains, deputy provost marshals as first lieutenants, and enrolling officers as second lieutenants.

Rank of said officers.

Increase of pension of widows and children. (For children by former marriage, see sec. 4, act of July 27, 1868.)
Sec. 4703, R. S.

SEC. 2. *And be it further enacted,* That the pensions to widows of deceased soldiers and sailors having children by such deceased soldiers or sailors be increased at the rate of two dollars per month for each child of such soldier or sailor under the age of sixteen years. And in all cases in which there shall be more than one child of any deceased soldier or sailor leaving no widow, or where his widow has died or married again, or where she has been deprived of her pension under the provisions of section eleven of an act entitled "An act supplementary to the several acts relating to pensions," approved June sixth, eighteen hundred and sixty-six, the pension granted to such children under sixteen years of age by existing laws shall be increased to the same amount per month that would be allowed under the foregoing provisions to the widow if living and entitled to a pension: *Provided,* That in no case shall more than one pension be allowed to the same person.

Extension of provisions of act of July 14, 1862, and those supplementary thereto, to all except revolutionary pensioners.

See sec. 4712, R. S. (Old Wars.)

Arrears of invalid pension to widows, &c. (Amended and re-enacted by sec. 9, act of July 27, 1868.)

See "Accrued pension." Sec. 4718, R. S.

SEC. 3. *And be it further enacted,* That the provisions of an act entitled "An act to grant pensions," approved July fourteen, eighteen hundred and sixty-two, and of the acts supplementary thereto and amendatory thereof, are hereby, so far as applicable, extended to the pensioners under previous laws, except revolutionary pensioners.

SEC. 4. *And be it further enacted,* That if any person during the pendency of his application for an invalid pension, and after the completion of the proof showing his right thereto, has died, or shall hereafter die, but not in either case by reason of a wound received or disease contracted in

the service of the United States and in the line of duty, his widow, or if he left no widow, or in the event of her death or marriage, his relatives in the same order in which they would have received a pension if they had been thereunto entitled under existing laws on account of the services and death in the line of duty of such person, shall have the right to demand and receive the accrued pension to which he would have been entitled had the certificate issued before his death; and in all cases where such person so entitled to an invalid pension has died, or shall hereafter die, under circumstances hereinbefore mentioned, whether by reason of a wound received or disease contracted in the service of the United States and in the line of duty, or otherwise, without leaving a widow or such relatives, then such accrued pension shall be paid to the executor or administrator of such person in like manner and effect as if such pension were so much assets belonging to the estate of the deceased at the time of his death.

SEC. 5. *And be it further enacted*, That the repeal by the act entitled "An act supplementary to the several acts relating to pensions," approved June sixth, eighteen hundred and sixty-six, of parts of certain acts mentioned in the first section of said act, shall not work a forfeiture of any rights accrued under or granted by such parts of such acts so repealed; but such rights shall be recognized and allowed in the same manner and to all intents and purposes as if said act had never passed, except that the invalid pensioner shall be entitled to draw, from and after the taking effect of said act, the increased pension thereby granted in lieu of that granted by such parts of such acts so repealed.

Increase of pension granted by sec. 5, act of July 4, 1864, and sec. 2, act of Mar. 5, 1865, to be as heretofore, and that granted by sec. 1, act of June 6, 1866, to commence from last-named date.

SEC. 6. *And be it further enacted*, That nothing in the fourth section of an act entitled "An act supplementary to the several acts relating to pensions," approved March third, eighteen hundred and sixty-five, or in any other supplementary or amendatory act relating to pensions, shall be so construed as to impair the right of a widow, whose claim for a pension was pending at the date of her remarriage, to the pension to which she would otherwise be entitled had her deceased husband left no minor child or children under the age of sixteen years.

Widow not debarred by remarriage if her claim was pending at said date, and if no children of her deceased husband survived. (See sec. 10, act of July 27, 1868.) Sec. 4708, R. S.

Approved July 25, 1866.

AN ACT to provide for the payment of pensions.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That See secs. 4778, 4779, 4780, R. S.

the President of the United States shall be, and he is hereby, authorized to establish agencies for the payment of pensions granted by the United States, wherever, in his judgment, the public interests and the convenience of the pensioners require, and by and with the advice and consent of the Senate, to appoint all pension agents, who shall hold their offices for the term of four years and until their successors shall have been appointed and qualified, and who shall give bond, with good and sufficient sureties, for such amount and in such form as the Secretary of the Interior may approve: *Provided*, That the number of pension agencies in any State or Territory shall, in no case, be increased hereafter so as to exceed three, and that no such agency shall be established in addition to those now existing in any State or Territory in which the whole amount of pensions paid during the fiscal year next preceding shall not have exceeded the sum of five hundred thousand dollars: *And provided further*, That the term of office of all pension agents appointed since the first day of July, anno Domini eighteen hundred and sixty-six, shall expire at the end of thirty days from the passage of this act; and the commissions of all other pension agents now in office shall continue for four years from the passage of this act unless such agents are sooner removed.

Approved February 5, 1867.

JOINT RESOLUTION prohibiting payments by any officer of the Government to any person not known to have been opposed to the rebellion and in favor of its suppression, approved March 2, 1867.—(Revised Statutes, vol. xiv, No. xlvii.)

Joint resolution under which loyal pensioners in rebellious States are restored.
Sec. 3480, R. S.

Resolved, &c., That until otherwise ordered, it shall be unlawful for any officer of the United States Government to pay any account, claim, or demand against said Government which accrued or existed prior to the thirteenth of April, eighteen hundred and sixty-one, in favor of any person who promoted, encouraged, or in any manner sustained the late rebellion, or in favor of any person who, during said rebellion, was not known to be opposed thereto, and distinctly in favor of its suppression; and no pardon heretofore granted, or hereafter to be granted, shall authorize the payment of such account, claim or demand, until this resolution is modified or repealed: *Provided*, That this resolution shall not be construed to prohibit the payment of claims founded upon contracts made by any of the Departments where such claims were assigned or contracted to be assigned prior to

April first, eighteen hundred and sixty-one, to creditors of said contractors, loyal citizens of loyal States, in payment of debts incurred prior to March one, eighteen hundred and sixty-one.

Approved March 2, 1867.

AN ACT for the relief of certain soldiers and sailors therein designated.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no soldier or sailor shall be taken or held to be a deserter from the Army or Navy who faithfully served according to his enlistment until the nineteenth day of April, eighteen hundred and sixty-five, and who, without proper authority or leave first obtained, did quit his command or refuse to serve after said date; but nothing herein contained shall operate as a remission of any forfeiture incurred by such soldier or sailor of his pay, bounty, pension, or other allowances, but this act shall be construed solely as a removal of any disability such soldier or sailor may have incurred by the loss of his citizenship in consequence of his desertion.

Re-enacted in
sec. 4749, R. S.

Approved July 19, 1867.

AN ACT relating to pensions, [to provide for invalids disabled subsequent to its passage, and their relatives; for further increase to invalids, additional increase to widows; pension to children by prior marriage; increase of pensions to widows of Revolutionary soldiers, &c.,] approved July 27, 1868.—(Revised Statutes, vol. xv, chap. cclxiv.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the laws granting pensions to the hereinafter-mentioned dependent relatives of deceased persons leaving neither widow nor child entitled to pensions under existing laws, shall be so construed as to give precedence to such relatives in the following order, namely: First, mothers; secondly, fathers; thirdly, orphan brothers and sisters under sixteen years of age, who shall be pensioned jointly if there be more than one: *Provided*, That if, in any case, the said persons shall have left both mother and father who were dependent upon them, then on the death of the mother the father shall become entitled to a pension commencing from and after the death of the mother; and upon the death of the mother and father the dependent brothers and sisters under sixteen years of age shall jointly become entitled to such pension

Succession of
dependent rela-
tives.

Sec. 4707, R. S.

Pensions here-
tofore awarded
not affected by
this section.

until they attain the age of sixteen years, respectively, commencing from and after the death of the party who, preceding them, would have been entitled to the same: *And provided further*, That no pension heretofore awarded shall be affected by anything herein contained.

In case disability was incurred subsequent to passage of this act.

Sec. 4694, R. S.

SEC. 2. *And be it further enacted*, That no person shall be entitled to a pension by reason of wounds received, or disease contracted, in the service of the United States, subsequently to the passage of this act, unless the person who was wounded or contracted disease was in the line of duty; and, if in the military service, was at the time actually in the field, or on the march, or at some post, fort, or garrison; or if in the naval service was at the time borne on the books of some ship, or other vessel of the United States, at sea or in harbor, actually in commission, or was on his way, by direction of competent authority, to the United States, or to some other vessel or naval station.

Unclaimed pensions.

Sec. 4719, R. S.

SEC. 3. *And be it further enacted*, That so much of the acts approved April sixth, eighteen hundred and thirty-eight, and August twenty-third, eighteen hundred and forty-two, as requires that pensions remaining unclaimed for fourteen months after the same has become due shall be adjusted at the office of the Third Auditor, is hereby repealed; and the failure of any pensioner to claim his or her pension for a period of three years after the same shall have become due, shall be deemed presumptive evidence that such pension has legally terminated by reason of the pensioner's death, remarriage, recovery from disability, or otherwise, and the pensioner's name shall be stricken from the rolls, subject to the right of restoration to the same on a new application, with evidence satisfactorily accounting for the failure to claim such pension.

Right of restoration to roll.

Increase of pensions of widows and of children by a former wife.

Sec. 4703, R. S.

SEC. 4. *And be it further enacted*, That if any officer, soldier, seaman, or enlisted man has died since the fourth day of March, eighteen hundred and sixty-one, or shall hereafter die, leaving a widow entitled to a pension, and a child or children under sixteen years of age by a former wife, each of said children shall be entitled to receive two dollars per month, to commence from the death of their father and continue until they severally attain the age of sixteen years, to be paid to the guardian of such child or children for their use and benefit: *Provided, however*, That in all cases where such widow is charged with the care, custody, and maintenance of such child or children, the said sum of two dollars per month for each of said children shall be paid to her for and during the time she is, or may have been, so

Sec. sec. 2, act of July 25, 1866.

charged with the care, custody, and maintenance of such child or children, subject to the same conditions, provisions, and limitations as if they were her own children by her said deceased husband.

SEC. 5. *And be it further enacted*, That in all cases where an increased pension has been or may hereafter be granted to any widow or guardian of the children under sixteen years of age of a deceased soldier or sailor under an act entitled "An act increasing the pensions of widows, and for other purposes," approved July twenty-fifth, eighteen hundred and sixty-six, or any subsequent act, such widow, or the guardian of such children, shall not be deprived of such increase by reason of any child or children of such deceased soldier or sailor being the inmate of any home, orphan's asylum, or other public or private charitable institution organized for the care and education of soldiers' orphans under the laws of any of the States, or in any school or institution where such orphan may in whole or in part be maintained or educated at the expense of a State, or of the public.

Widows and minors not debarred from increase by the maintenance or education of the latter by any person other than the widow.
Sec. 4708, R. S.

SEC. 6. *And be it further enacted*, That all pensions which have been granted in consequence of death occurring or disease contracted, or wounds received, since the fourth day of March, eighteen hundred and sixty-one, or may hereafter be granted, shall commence from the discharge or from the death of the person on whose account the pension has been or shall hereafter be granted: *Provided*, That the application for such pension has been, or shall hereafter be, filed with the Commissioner of Pensions within five years after the right thereto shall have accrued; except that applications by or in behalf of insane persons and children under sixteen years of age may be filed after the expiration of the said five years, if previously thereto they were without guardians or other proper legal representatives.

Extension of limitation as to filing and provision for arrears.
(See sec. 5, act of July 14, 1862, and sec. 13, act of June 6, 1866.)
Sec. 4709, R. S.
(Repealed.)
See Addenda.

SEC. 7. *And be it further enacted*, That immediately upon the passage of this act, or as soon thereafter as may be practicable, it shall be the duty of the Commissioner of Pensions to give public notice of the contents of the foregoing section, particularly at the offices of the several pension agencies; and upon any application by letter or otherwise for or on behalf of any person entitled to the benefit of its provisions, or upon any notification that such person is so entitled, to pay or cause to be paid to him all such arrears of pensions as he may be entitled to under the provisions of said section; and no claim agent or other person shall be entitled to receive any compensation for services in making

Notification of title to arrears.

No fees to agents.

application for the arrears of pension under this and the preceding section.

Widows' pension to children, until they reach the age of sixteen, if she has abandoned or become unfit for the care of them. (Re-enacts sec. 11, act of June 6, 1886.) Evidence satisfactory to Commissioner of Pensions.

Sec. 4706, R. S.

SEC. 8. *And be it further enacted*, That section eleven of act entitled "An act supplementary to the several acts relating to pensions," approved June six, eighteen hundred and sixty-six, be amended and re-enacted so as to read as follows: "That if any officer, soldier, or seaman shall have died of wounds received or of disease contracted in the line of duty in the military or naval service of the United States, leaving a widow and a child or children under the age of sixteen years, and it shall be duly certified under seal, by any court having probate jurisdiction, that satisfactory evidence has been produced before such court that the widow aforesaid has abandoned the care of such child or children, or is an unsuitable person, by reason of immoral conduct, to have the custody of the same, or on presentation of satisfactory evidence thereof to the Commissioner of Pensions, then no pension shall be allowed to such widow until said child or children shall have severally become sixteen years of age, any previous enactment to the contrary notwithstanding; and the child or children aforesaid shall be pensioned in the same manner as if no widow had survived the said officer, soldier, or seaman, and such pension may be paid to the regularly-authorized guardian of such child or children."

Pending claim may be completed by heirs after death, if no widow nor child survive.

Sec. 4718, R. S.
See "Accrued pension."

SEC. 9. *And be it further enacted*, That section six of an act entitled "An act supplementary to the several acts relating to pensions," approved June six, eighteen hundred and sixty-six, be and the same is hereby, amended and re-enacted, so as to read as follows: That if any person entitled to a pension has died since March fourth, eighteen hundred and sixty-one, or shall hereafter die while an application for such pension is pending, leaving no widow and no child under sixteen years of age, his or her heirs or legal representatives shall be entitled to receive the accrued pension to which the applicant would have been entitled had the certificate been issued before his or her death.

Widow or mother may apply after remarriage. (See act, 6, July 25, 1886.)
See sec. 4708, R. S.

SEC. 10. *And be it further enacted*, That the remarriage of any widow or dependent mother, otherwise entitled to a pension prior to the application therefor, or to the issue of a pension certificate to her, shall not debar her right to a pension for the period elapsing from the death of her husband or son, on account of whose services and death she may claim a pension, to her remarriage: *Provided, however*, That nothing in this section shall be construed to repeal or modify the fourth section of an act entitled "An act supple-

mentary to the several acts granting pensions," approved March third, eighteen hundred and sixty-five.

SEC. 11. *And be it further enacted*, That the provisions of the ninth section of an act approved July fourth, eighteen hundred and sixty-four, entitled "An act supplementary to 'An act to grant pensions,'" are hereby continued in force for five years from the fourth day of July, eighteen hundred and sixty-seven.

Extension of time for completion of claims of non-enlisted men. Par. 3, sec. 4693, R. S.

SEC. 12. *And be it further enacted*, That section one of an act entitled "An act supplementary to the several acts relating to pensions," approved June six, eighteen hundred and sixty-six, shall be so construed as to secure to every person entitled by law before the passage of said act to a less pension than twenty-five dollars per month, who, while in the military or naval service, and in the line of duty, or in consequence of wounds received or disease contracted therein, having only one eye, shall have lost the same, a pension of twenty-five dollars per month.

Increase for loss of only eye. Sec. 4698, R. S.

SEC. 13. *And be it further enacted*, That the third section of an act entitled "An act increasing the pensions of widows and orphans, and for other purposes," approved July twenty-fifth, eighteen hundred and sixty-six, shall be so construed as to place all pensioners whose right thereto accrued subsequently to the war of the Revolution, and prior to the fourth day of March, eighteen hundred and sixty-one, on the same footing, as to rate of pension, from and after the passage of said act, as those who have been pensioned under acts passed since said fourth day of March, eighteen hundred and sixty-one; and the widows of revolutionary soldiers and sailors now receiving a less sum shall hereafter be paid at the rate of eight dollars per month.

Pensions by reason of right accrued since Revolution, and before 1862, to be rated from July 25, 1866, same as those under act of 1862, and supplemental. (See Old Wars.)

SEC. 14. *And be it further enacted*, That all officers in the military or naval service, of the rank of captain in the Army or lieutenant in the Navy, and of less rank, who have lost a leg or an arm in such service and in the line of duty, or in consequence of wounds received or disease contracted therein, shall be entitled to receive an artificial limb on the same terms as privates in the Army are now entitled to receive the same.

Revolutionary widows to receive at least \$8 per month

Limbs to officers. See Artificial Limbs.

SEC. 15. *And be it further enacted*, That in all cases pensions heretofore or hereafter granted by special acts of Congress shall be subject to be varied in amount according to the provisions and limitations of the pension laws.

Special acts. Sec. 4720, R. S.

SEC. 16. *And be it further enacted*, That all acts and parts of acts inconsistent with the foregoing provisions of this act be, and the same are hereby, repealed.

Approved July 27, 1868.

AN ACT to construe certain acts therein cited in relation to pensions,
approved July 7, 1870.

Acts of July 25,
1866, and July 27,
1868, not con-
strued to increase
or reduce special
act pensions.

See sec. 4720,
R. S.
Special acts.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That neither the act of July twenty-fifth, eighteen hundred and sixty-six, entitled "An act increasing the pensions of widows and orphans, and for other purposes," nor the act of July twenty-seventh, eighteen hundred and sixty-eight, entitled "An act relating to pensions," shall be so construed as to increase the amount directed to be paid in any special act of Congress granting a pension; nor shall said acts be construed so as to reduce the same whenever such act fixes definitely the amount of pension to which the person therein named shall be entitled, in excess of the rate fixed by general law for the rank in respect to which such special pensions may have been or may hereafter be granted.

SEC. 2. *And be it further enacted,* That this act shall have the effect to restore to the persons affected hereby any sums heretofore withheld from them by the construction hereinbefore prohibited.

Approved July 7, 1870.

AN ACT to define the duties of pension agents, to prescribe the manner of paying pensions, and for other purposes, approved July 8, 1870.

Transmittal of
vouchers to pen-
sioners.

See sec. 4764,
R. S.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, within fifteen days immediately preceding the fourth day of March, June, September, and December in each year, the several agents for the payment of pensions shall prepare a quarterly voucher for each and every person whose pension is payable at his agency, and transmit the same by mail, directed to the address of the pensioner named in such voucher, who, on or after the fourth day of March, June, September, and December next succeeding the date of such voucher, may execute and return the same to the agency at which it was prepared, and at which the pension of such person is due and payable.

Payment of
pensions.
Sec. 4765, R. S.

SEC. 2. *And be it further enacted,* That upon the receipt of such voucher, properly executed, and the identity of the pensioner being established and proven in the manner prescribed by the Secretary of the Interior, the agent for the payment of pensions shall immediately draw his check on the proper assistant treasurer or designated depository of the United States for the amount due such pensioner, pay-

able to his or her order, and transmit the same by mail, directed to the address of the pensioner entitled thereto; but any pensioner may be required, if thought proper by the Commissioner of Pensions, to appear personally and receive his pension.

SEC. 3. *And be it further enacted*, That hereafter no pension shall be paid to any person other than the pensioner entitled thereto, nor otherwise than according to the provisions of this act; and no warrant, power of attorney, or other paper executed or purporting to be executed by any pensioner to any attorney, claim agent, broker, or other person, shall be recognized by any agent for the payment of pensions, nor shall any pension be paid thereon: *Provided*, That payment to persons laboring under legal disabilities may be made to the guardians of such persons in the manner herein prescribed: *And provided further*, That pensions payable to persons in foreign countries may be made according to the provisions of existing laws.

The only payment of pension to others than pensioners allowable, is in the case of persons under legal disabilities, or of those resident in foreign countries.
Sec. 4766, R. S.

SEC. 4. *And be it further enacted*, That, in addition to the compensation now allowed by law, each pension agent shall be allowed, as full compensation for all service, including postage required by the provisions of this act, the sum of thirty cents, and no more, for each voucher prepared and paid by him, which amount shall be paid by the United States. And any pension agent or other person employed or appointed by him who shall take or receive, or demand any fee or reward from any pensioner for any service in connection with the payment of his or her pension, shall be held guilty of a misdemeanor, and shall be punished by a fine not exceeding five hundred dollars.

Compensation of pension agents.
Sec. 4767, R. S.

SEC. 5. *And be it further enacted*, That the Secretary of the Interior shall cause suitable blanks for the vouchers mentioned in the first section of this act to be printed and distributed to the agents for the payment of pensions, upon which he shall cause a note to be printed informing pensioners of the fact that hereafter no pension will be paid except upon the vouchers issued as herein directed; and he shall also give all necessary instructions and make all needful regulations for carrying this act into effect.

Payments to be made only on vouchers issued by pension agents.
Sec. 4767, R. S.

SEC. 6. *And be it further enacted*, That agents for the payment of pensions, and any clerks appointed by them and designated in writing for that purpose, which designation shall be returned to and filed in the office of the Commissioner of Pensions, are hereby authorized and required, without any fee therefor, to take and certify the affidavits of all pensioners and their witnesses who may personally

Pension agents and their clerks to take affidavits of and to pay pensions direct to pensioners appearing in person.
Sec. 4784, R. S.

appear before them for that purpose, in which case the check for the pension, when due and payable, shall be given direct to the hand of the party entitled thereto, if desired, and not mailed to his or her address as required by the second section of this act; and any person who shall falsely and corruptly take and subscribe any such affidavit before any agent or his designated clerk for the payment of pensions shall be deemed guilty of perjury, and, on conviction, be punished by imprisonment not exceeding five years, and by fine not exceeding one thousand dollars.

Claim agents and attorneys' fees not to exceed twenty-five dollars, and, no agreement being filed, not to exceed ten dollars.
Sec. 4786, R. S.

SEC. 7. *And be it further enacted*, That the fee of agents and attorneys for the preparation and prosecution of a claim for pension or bounty-land, under any or all the various acts of Congress granting the same, shall not exceed in any case the sum of twenty-five dollars. It shall be the duty of the agent or attorney of record in the prosecution of the case to cause to be filed with the Commissioner of Pensions, for his approval, duplicate articles of agreement, without additional cost to the claimant, setting forth the fee agreed upon by the parties, and which agreement shall be executed in presence of and certified by some officer competent to administer oaths. In all cases where application is made for pension or bounty-land, and no agreement is filed with and approved by the Commissioner as herein provided, the fee shall be ten dollars and no more.

Penalty for contracting for, demanding, or receiving excessive fee.
See secs. 4785 and 5485, R. S.

SEC. 8. *And be it further enacted*, That any agent or attorney who shall, directly or indirectly, contract for, demand, receive or retain any greater compensation for his services as such agent or attorney, in any claim for pension or bounty-land, than is prescribed or allowed under the provisions of the preceding section, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall, for every such offense, be fined not exceeding five hundred dollars, or imprisoned at hard labor not exceeding five years, or both, in the discretion of the court.

Pension certificate and directions as to fee in each case to be sent to pension agent.
Sec. 4768, R. S.

SEC. 9. *And be it further enacted*, That the Commissioner of Pensions shall forward the certificate of pension granted in any case to the agent for paying pensions where said certificate shall be made payable, and at the same time forward therewith one of the articles of agreement filed in the case and approved by the Commissioner, setting forth the fee agreed upon between the claimant and the attorney or agent, and where no agreement is on file, as hereinbefore provided, he shall direct that a fee of ten dollars only be paid said agent or attorney.

SEC. 10. *And be it further enacted*, That it shall be the duty of the agent paying such pension to deduct from the amount due the pensioner the amount of fee so agreed upon or directed by the Commissioner to be paid where no agreement is filed and approved, and to forward or cause to be forwarded to the agent or attorney of record named in the said agreement, or, in case there is no agreement, to the agent prosecuting the case, the amount of the proper fee, deducting therefrom the sum of thirty cents in payment of his services in forwarding the same.

Attorney's fee to be forwarded by pension agent. Sec. 4769, R. S.

SEC. 11. *And be it further enacted*, That all acts and parts of acts in conflict with the provisions of this act be, and the same are hereby, repealed.

Approved July 8, 1870.

AN ACT granting pensions to certain soldiers and sailors of the war of eighteen hundred and twelve, and the widows of deceased soldiers approved February fourteenth, eighteen hundred and seventy-one.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll the names of the surviving officers and enlisted and drafted men, including militia and volunteers, of the military and naval service of the United States who served sixty days in the war with Great Britain of eighteen hundred and twelve, and were honorably discharged, and to such officers and soldiers as may have been personally named in any resolution of Congress for any specific service in said war, although their term of service may have been less than sixty days, and who at no time during the late rebellion against the authority of the United States adhered to the cause of the enemies of the Government, giving them aid and comfort, or exercised the functions of any office whatever under any authority or pretended authority in hostility to the United States, and who shall take and subscribe an oath to support the Constitution of the United States, and the surviving widows of such officers and enlisted and drafted men: *Provided*, That such widow shall have been married prior to the treaty of peace which terminated said war to an officer, or enlisted or drafted man who served as aforesaid in said war, and shall not have remarried.

Pensions granted to certain soldiers and sailors of the war of 1812, and the surviving widows thereof. See "Service Pensions, war of 1812."

Proviso.

SEC. 2. *And be it further enacted*, That this act shall not apply to any person who is receiving a pension at the rate of eight dollars or more per month, nor to any person re-

Act not applicable to persons receiving full pensions.

Rate of pen-
sions under this
act.

ceiving a pension less than eight dollars per month, except for the difference between the pension now received and eight dollars per month. Pensions under this act shall be at the rate of eight dollars per month, except, as herein provided, when a person is receiving a pension of less than eight dollars per month, and shall be paid to the persons entitled thereto from and after the passage of this act for and during the term of their natural lives.

Proof required.

SEC. 3. *And be it further enacted*, That before the name of any person shall be placed upon the pension roll under this act proof shall be made, under such rules and regulations as the Secretary of the Interior may prescribe, that the applicant is entitled to a pension under the provisions of this act; and any person who shall falsely take any oath required to be taken under the provisions of this act shall

Perjury.

Names to be
stricken from the
rolls on evidence
of fraud.

be guilty of perjury; and the Secretary of the Interior shall cause to be stricken from the pension roll the name of any person whenever it shall appear by proof satisfactory to him that such name was put upon such roll through false or fraudulent representations as to the right of such person to a pension under the provisions of this act. The loss of a certificate of discharge shall not deprive the applicant of the benefits of this act, but other proof of service performed and of an honorable discharge, if satisfactory, shall be deemed sufficient.

Loss of certi-
ficate of discharge
no bar to title.

Provisions of
former acts appli-
cable to this, and
together with it.
(See also post-
act Mar. 3, 1871.)

SEC. 4. *And be it further enacted*, That the provisions of sections twelve and thirteen of an act entitled "An act supplementary to 'An act to grant pensions,'" approved July fourth, eighteen hundred and sixty-four, and of sections two, three, and four of an act entitled "An act supplementary to several acts relating to pensions," approved June six, eighteen hundred and sixty-six, shall be applicable to the pensions granted by this act.

Approved February 14, 1871.

AN ACT making appropriations to supply deficiencies in the appropriations for the service of the Government for the fiscal years ending June thirty, eighteen hundred and seventy, and June thirty, eighteen hundred and seventy-one, and for former years, and for other purposes, approved March three, eighteen hundred and seventy-one.

* * * * *

Appropriations.

For the payment during the fiscal year ending June thirty, eighteen hundred and seventy-one, of pensions, under the act of February fourteen, eighteen hundred and seventy-one, granting pensions to certain soldiers and sailors of the

war of eighteen hundred and twelve, and the widows of deceased soldiers and sailors, two hundred and forty thousand dollars: *Provided*, That the provisions of the act of Congress entitled "An act to define the duties of pension agents, to prescribe their manner of paying pensions, and for other purposes," approved July eight, eighteen hundred and seventy, shall be, and the same is hereby, declared to be applicable to all pensions granted by virtue of the said act, approved February fourteen, eighteen hundred and seventy-one.

Proviso—act of July 8, 1870, applicable to pensions allowed under act of Feb. 14, 1871.

See "Service Pensions, War of 1812."

* * * * *

Approved March 3, 1871.

AN ACT to authorize the payment of duplicate checks of disbursing officers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in place of original checks issued for pensions, when lost, stolen, or destroyed, disbursing officers and agents of the United States are hereby authorized, after the expiration of six months from the date of such checks, to issue duplicate checks, and the Treasurer, assistant treasurers, and designated depositaries of the United States are directed to pay such checks, drawn in pursuance of law by such officers or agents, upon notice and proof of the loss of the original check or checks, under such regulations in regard to their issue and payment, and upon the execution of such bonds, with sureties, to indemnify of the United States, as the Secretary of the Treasury shall prescribe: *Provided*, That this act shall not apply to any check exceeding in amount the sum of five hundred dollars.

Sec. 4770, R. S., now sec. 3646, R. S.

Approved, April 19, 1871.

AN ACT to authorize the payment of duplicate checks of disbursing officer.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in place of original checks, when lost, stolen, or destroyed, disbursing officers and agents of the United States are hereby authorized, after the expiration of six months from the date of such checks, and within three years from such date, to issue duplicate checks, and the Treasurer, assistant treasurers, and designated depositaries of the United States are

Sec. 4770, R. S., now sec. 3646, R. S.

directed to pay such checks, drawn in pursuance of law by such officers or agents, upon notice and proof of the loss of the original check or checks, under such regulations in regard to their issue and payment, and upon the execution of such bonds, with sureties, to indemnify the United States, as the Secretary of the Treasury shall prescribe: *Provided*, That this act shall not apply to any check exceeding in amount the sum of one thousand dollars.

SEC. 2. That in case the disbursing officer or agent by whom such lost, destroyed, or stolen original check was issued, be dead, or no longer in the service of the United States, it shall be the duty of the proper accounting officer, under such regulations as the Secretary of the Treasury shall prescribe, to state an account in favor of the owner of such original check for the amount thereof, and to charge such amount to the account of such officer or agent.

Approved, February 2, 1872.

AN ACT to prohibit the retention of soldiers' discharges by claim-agents and attorneys.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any claim agent, attorney, or other person engaged in the collection of claims for pay, bounty, pension, or other allowance for any soldier, sailor, or marine, or for any commissioned officer of the military or naval forces, or who may have been a soldier, sailor, marine, or officer of the regular or volunteer forces of the United States, and honorably discharged, who shall retain, without the consent of the owner or owners thereof, or shall refuse to deliver or account for the same upon demand duly made by the owner or owners thereof, or by their agent or attorney, the discharge-papers or land-warrant of any such soldier, sailor, or marine, or commissioned officer, which may have been placed in his hands for the purpose of collecting said claims, shall be deemed guilty of a misdemeanor, and shall, upon conviction, be punished by fine not exceeding five hundred dollars, or by imprisonment not exceeding six months, or both, at the discretion of the court, and shall thereafter be debarred from prosecuting any such claim in any executive department of the government.

Approved May 21, 1872.

AN ACT increasing the rates of pension to certain persons therein described.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act entitled "An act supplementary to the several acts relating to pensions," approved June sixth, eighteen hundred and sixty-six, be so amended that from and after the passage of this act all persons entitled by law to a less pension than hereinafter specified, who, while in the military or naval service of the United States and in line of duty, shall have lost the sight of both eyes, or shall have lost both hands, or shall have lost both feet, or been permanently and totally disabled in the same, or otherwise so permanently and totally disabled as to render them utterly helpless, or so nearly so as to require the constant personal aid and attendance of another person, shall be entitled to a pension of thirty-one dollars and twenty-five cents per month; and all persons who under like circumstances shall have lost one hand and one foot, or been totally and permanently disabled in the same, or otherwise so disabled as to be incapacitated for performing any manual labor, but not so much as to require constant personal aid and attendance, shall be entitled to a pension of twenty-four dollars per month; and all persons who under like circumstances shall have lost one hand; or one foot, or been totally and permanently disabled in the same, or otherwise so disabled as to render their incapacity to perform manual labor equivalent to the loss of a hand or foot, shall be entitled to a pension of eighteen dollars per month, from and after the fourth day of June, eighteen hundred and seventy-two.

See sec. 4608,
R. S.

Approved June 8, 1872.

AN ACT to revise, consolidate, and amend the laws relating to pensions.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That if the ability of any officer of the army, including regulars, volunteers, and militia, or any officer in the navy or marine corps, or any enlisted man, however employed, in the military or naval service of the United States, or in its marine corps, whether regularly mustered or not, disabled by reason of any wound or injury received, or disease contracted, while in the service of the United States, and in the line of duty; any master serving on a gunboat, or any pilot, engineer, sailor, or other person not regularly mustered, serving upon any gunboat or war-vessel of the United States, dis-

See sec. 4602,
R. S.

abled by any wound or injury received, or otherwise incapacitated, while in the line of duty, for procuring his subsistence by manual labor; any person not an enlisted soldier in the army, serving for the time being as a member of the militia of any State under orders of an officer of the United States, or who volunteered for the time being to serve with any regularly organized military or naval force of the United States, or who otherwise volunteered and rendered service in any engagement with rebels or Indians, disabled in consequence of wounds or injury received in the line of duty in such temporary service; any acting assistant or contract surgeon, disabled by any wound or injury received or disease contracted in the line of duty while actually performing the duties of assistant surgeon or acting assistant surgeon with any military force in the field or in transitu or in hospital, or any provost-marshal, deputy provost-marshal, or enrolling officer, disabled by reason of any wound or injury received in the discharge of his duty, to procure a subsistence by manual labor, has been since the fourth day of March, eighteen hundred and sixty-one, or shall hereafter be impaired by reason of such disability, he shall, upon making due proof of the fact according to such forms and regulations as are or may be provided by and in pursuance of law, be placed upon the list of invalid pensioners of the United States, and be entitled to receive, for a total disability or a permanent specific disability, such pension as is hereinafter provided in such cases, and for an inferior disability, except in cases of permanent specific disability for which the rate of pension is expressly provided, an amount proportionate to that provided for total disability, to commence as hereinafter provided, and to continue during the existence of the disability: *Provided*, That no claim of a State militiaman, or non-enlisted person, on account of disability from wounds or injury received in battle with rebels or Indians, while temporarily rendering service, shall be valid unless prosecuted to a successful issue prior to the fourth day of July, eighteen hundred and seventy-four: *And*

Par. 2, sec. 4602,
R. S.

Sec. 4604, R. S.

provided further, That no person shall be entitled to a pension by reason of wounds or injury received or disease contracted in the service of the United States subsequent to the twenty-seventh day of July, eighteen hundred and sixty-eight, unless the person who was wounded or contracted the disease was in the line of duty; and, if in the military service, was at the time actually in the field, or on the march, or at some post, fort, or garrison, or en route by direction of competent authority to some post, fort, or garrison; or,

mentary to the several acts granting pensions," approved March third, eighteen hundred and sixty-five.

SEC. 11. *And be it further enacted*, That the provisions of the ninth section of an act approved July fourth, eighteen hundred and sixty-four, entitled "An act supplementary to 'An act to grant pensions,'" are hereby continued in force for five years from the fourth day of July, eighteen hundred and sixty-seven.

Extension of time for completion of claims of non-enlisted men. Par. 3, sec. 4698, R. S.

SEC. 12. *And be it further enacted*, That section one of an act entitled "An act supplementary to the several acts relating to pensions," approved June six, eighteen hundred and sixty-six, shall be so construed as to secure to every person entitled by law before the passage of said act to a less pension than twenty-five dollars per month, who, while in the military or naval service, and in the line of duty, or in consequence of wounds received or disease contracted therein, having only one eye, shall have lost the same, a pension of twenty-five dollars per month.

Increase for loss of only eye. Sec. 4698, R. S.

SEC. 13. *And be it further enacted*, That the third section of an act entitled "An act increasing the pensions of widows and orphans, and for other purposes," approved July twenty-fifth, eighteen hundred and sixty-six, shall be so construed as to place all pensioners whose right thereto accrued subsequently to the war of the Revolution, and prior to the fourth day of March, eighteen hundred and sixty-one, on the same footing, as to rate of pension, from and after the passage of said act, as those who have been pensioned under acts passed since said fourth day of March, eighteen hundred and sixty-one; and the widows of revolutionary soldiers and sailors now receiving a less sum shall hereafter be paid at the rate of eight dollars per month.

Pensions by reason of right accrued since Revolution, and before 1862, to be rated from July 25, 1866, same as those under act of 1862, and supplements. (See Old Wars.)

SEC. 14. *And be it further enacted*, That all officers in the military or naval service, of the rank of captain in the Army or lieutenant in the Navy, and of less rank, who have lost a leg or an arm in such service and in the line of duty, or in consequence of wounds received or disease contracted therein, shall be entitled to receive an artificial limb on the same terms as privates in the Army are now entitled to receive the same.

Revolutionary widows to receive at least \$8 per month

Limbs to officers. See Artificial Limbs.

SEC. 15. *And be it further enacted*, That in all cases pensions heretofore or hereafter granted by special acts of Congress shall be subject to be varied in amount according to the provisions and limitations of the pension laws.

Special acts. Sec. 4720, R. S.

SEC. 16. *And be it further enacted*, That all acts and parts of acts inconsistent with the foregoing provisions of this act be, and the same are hereby, repealed.

Approved July 27, 1868.

AN ACT to construe certain acts therein cited in relation to pensions,
approved July 7, 1870.

Acts of July 25,
1866, and July 27,
1868, not con-
strued to increase
or reduce special
act pensions.

See sec. 4720,
R. S.
Special acts.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That neither the act of July twenty-fifth, eighteen hundred and sixty-six, entitled "An act increasing the pensions of widows and orphans, and for other purposes," nor the act of July twenty-seventh, eighteen hundred and sixty-eight, entitled "An act relating to pensions," shall be so construed as to increase the amount directed to be paid in any special act of Congress granting a pension; nor shall said acts be construed so as to reduce the same whenever such act fixes definitely the amount of pension to which the person therein named shall be entitled, in excess of the rate fixed by general law for the rank in respect to which such special pensions may have been or may hereafter be granted.

SEC. 2. *And be it further enacted,* That this act shall have the effect to restore to the persons affected hereby any sums heretofore withheld from them by the construction hereinbefore prohibited.

Approved July 7, 1870.

AN ACT to define the duties of pension agents, to prescribe the manner of paying pensions, and for other purposes, approved July 8, 1870.

Transmittal of
vouchers to pen-
sioners.

See sec. 4764,
R. S.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, within fifteen days immediately preceding the fourth day of March, June, September, and December in each year, the several agents for the payment of pensions shall prepare a quarterly voucher for each and every person whose pension is payable at his agency, and transmit the same by mail, directed to the address of the pensioner named in such voucher, who, on or after the fourth day of March, June, September, and December next succeeding the date of such voucher, may execute and return the same to the agency at which it was prepared, and at which the pension of such person is due and payable.

Payment of
pensions.
Sec. 4765, R. S.

SEC. 2. *And be it further enacted,* That upon the receipt of such voucher, properly executed, and the identity of the pensioner being established and proven in the manner prescribed by the Secretary of the Interior, the agent for the payment of pensions shall immediately draw his check on the proper assistant treasurer or designated depository of the United States for the amount due such pensioner, pay-

able to his or her order, and transmit the same by mail, directed to the address of the pensioner entitled thereto; but any pensioner may be required, if thought proper by the Commissioner of Pensions, to appear personally and receive his pension.

SEC. 3. *And be it further enacted*, That hereafter no pension shall be paid to any person other than the pensioner entitled thereto, nor otherwise than according to the provisions of this act; and no warrant, power of attorney, or other paper executed or purporting to be executed by any pensioner to any attorney, claim agent, broker, or other person, shall be recognized by any agent for the payment of pensions, nor shall any pension be paid thereon: *Provided*, That payment to persons laboring under legal disabilities may be made to the guardians of such persons in the manner herein prescribed: *And provided further*, That pensions payable to persons in foreign countries may be made according to the provisions of existing laws.

The only payment of pension to others than pensioners allowable, is in the case of persons under legal disabilities, or of those resident in foreign countries.
Sec. 4756, R. S.

SEC. 4. *And be it further enacted*, That, in addition to the compensation now allowed by law, each pension agent shall be allowed, as full compensation for all service, including postage required by the provisions of this act, the sum of thirty cents, and no more, for each voucher prepared and paid by him, which amount shall be paid by the United States. And any pension agent or other person employed or appointed by him who shall take or receive, or demand any fee or reward from any pensioner for any service in connection with the payment of his or her pension, shall be held guilty of a misdemeanor, and shall be punished by a fine not exceeding five hundred dollars.

Compensation of pension agents.
Sec. 4767, R. S.

SEC. 5. *And be it further enacted*, That the Secretary of the Interior shall cause suitable blanks for the vouchers mentioned in the first section of this act to be printed and distributed to the agents for the payment of pensions, upon which he shall cause a note to be printed informing pensioners of the fact that hereafter no pension will be paid except upon the vouchers issued as herein directed; and he shall also give all necessary instructions and make all needful regulations for carrying this act into effect.

Payments to be made only on vouchers issued by pension agents.
Sec. 4768, R. S.

SEC. 6. *And be it further enacted*, That agents for the payment of pensions, and any clerks appointed by them and designated in writing for that purpose, which designation shall be returned to and filed in the office of the Commissioner of Pensions, are hereby authorized and required, without any fee therefor, to take and certify the affidavits of all pensioners and their witnesses who may personally

Pension agents and their clerks to take affidavits of and to pay pensions direct to pensioners appearing in person.
Sec. 4784, R. S.

Sec. 4700, R. S.

SEC. 6. That officers absent on sick-leave, and enlisted men absent on sick-furlough, or on veteran-furlough, while with the organization to which they belong, shall be regarded in the administration of the pension laws in the same manner as if they were in the field or hospital.

Sec. 4701, R. S.

SEC. 7. That the period of service of all persons entitled to the benefit of the pension laws, or on account of whose death any person may become entitled to a pension, shall be construed to extend to the time of disbanding the organization to which such person belonged, or until their actual discharge for other cause than the expiration of the service of such organization.

Sec. 4702, R. S.

SEC. 8. That if any person embraced within the provisions of the first section of this act has died since the fourth day of March, eighteen hundred and sixty-one, or shall hereafter die, by reason of any wound, injury, or disease, which, under the conditions and limitations of said section, would have entitled him to an invalid pension had he been disabled, his widow, or if there be no widow, or in case of her death without payment to her of any part of the pension hereinafter mentioned, his child or children, under sixteen years of age, shall be entitled to receive the same pension as the husband or father would have been entitled to had he been totally disabled, to commence from the death of the husband or father, to continue to the widow during her widowhood, and to his child or children until they severally attain the age of sixteen years, and no longer, and that if the widow remarry, the child or children shall be entitled from the date of remarriage. That the provisions of this

Sec. 4722, R. S.

act are hereby extended to and made to embrace the officers and privates of the Missouri State militia, and the provisional Missouri militia, disabled by reason of injury received or disease contracted in the line of duty while such militia was co-operating with United States forces, and the widow or children of any such person, dying of injury received or disease contracted under the circumstances herein set forth, shall be entitled to the benefits of this act: *Provided*, That the pensions on account of such militia shall not commence prior to the date of the passage of this act. That the provisions of this section shall be so interpreted as to apply to the widows, child or children of officers and privates of the Missouri State militia, and the provisional Missouri militia, if the husband or father was wounded, or contracted the disease of which he died, while in the service of the Government of the United States.

SEC. 10. *And be it further enacted*, That it shall be the duty of the agent paying such pension to deduct from the amount due the pensioner the amount of fee so agreed upon or directed by the Commissioner to be paid where no agreement is filed and approved, and to forward or cause to be forwarded to the agent or attorney of record named in the said agreement, or, in case there is no agreement, to the agent prosecuting the case, the amount of the proper fee, deducting therefrom the sum of thirty cents in payment of his services in forwarding the same.

Attorney's fee to be forwarded by pension agent. Sec. 4769, R. S.

SEC. 11. *And be it further enacted*, That all acts and parts of acts in conflict with the provisions of this act be, and the same are hereby, repealed.

Approved July 8, 1870.

AN ACT granting pensions to certain soldiers and sailors of the war of eighteen hundred and twelve, and the widows of deceased soldiers approved February fourteenth, eighteen hundred and seventy-one.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll the names of the surviving officers and enlisted and drafted men, including militia and volunteers, of the military and naval service of the United States who served sixty days in the war with Great Britain of eighteen hundred and twelve, and were honorably discharged, and to such officers and soldiers as may have been personally named in any resolution of Congress for any specific service in said war, although their term of service may have been less than sixty days, and who at no time during the late rebellion against the authority of the United States adhered to the cause of the enemies of the Government, giving them aid and comfort, or exercised the functions of any office whatever under any authority or pretended authority in hostility to the United States, and who shall take and subscribe an oath to support the Constitution of the United States, and the surviving widows of such officers and enlisted and drafted men: *Provided*, That such widow shall have been married prior to the treaty of peace which terminated said war to an officer, or enlisted or drafted man who served as aforesaid in said war, and shall not have remarried.

Pensions granted to certain soldiers and sailors of the war of 1812, and the surviving widows thereof. See "Service Pensions, war of 1812."

Proviso.

SEC. 2. *And be it further enacted*, That this act shall not apply to any person who is receiving a pension at the rate of eight dollars or more per month, nor to any person re-

Act not applicable to persons receiving full pensions.

to any claims on account of persons who shall have enlisted after the passage of this act.

Sec. 4706, R. S.

SEC. 12. That if any person has died, or shall hereafter die, leaving a widow entitled to a pension by reason of his death, and a child or children under sixteen years of age by such widow, and it shall be duly certified under seal by any court having probate jurisdiction, that satisfactory evidence has been produced before such court upon due notice to the widow that the widow aforesaid has abandoned the care of such child or children, or that she is an unsuitable person, by reason of immoral conduct, to have the custody of the same, or on presentation of satisfactory evidence thereof to the Commissioner of Pensions, then no pension shall be allowed to such widow until such child or children shall have attained the age of sixteen years, any provisions of this act or of any previous act to the contrary notwithstanding; and the said child or children aforesaid shall be pensioned in the same manner, and from the same date, as if no widow had survived such person, and such pension shall be paid to the guardian of such child or children: *Provided*, That if in any case payment of pension shall have been made to the widow, the pension to the child or children shall commence from the date to which her pension has been paid.

Sec. 4707, R. S.

SEC. 13. That if any person embraced within the provisions of the first section of this act has died since the fourth day of March, eighteen hundred and sixty-one, or shall hereafter die, by reason of any wound, injury, casualty, or disease, which, under the conditions and limitations of said section, would have entitled him to an invalid pension, and has not left or shall not leave a widow or legitimate child, but has left or shall leave other relative or relatives who were dependent upon him for support at the date of his death, such relative or relatives shall be entitled in the following order of precedence to receive the same pension, as such person would have been entitled to had he been totally disabled, to commence from the death of such person, namely, first, the mother; secondly, the father; thirdly, orphan brothers and sisters under sixteen years of age, who shall be pensioned jointly: *Provided*, That where orphan children of the same parent have different guardians, or a portion of them only are under guardianship, the share of the joint pension to which each ward shall be entitled shall be paid to the guardian of such ward: *Provided*, That if in any case said person shall have left father and mother who are dependent upon him, then, on the death of the mother, the father shall become entitled to the pension, commencing

from and after the death of the mother; and upon the death of the mother and father, or upon the death of the father and the remarriage of the mother, the dependent brothers and sisters under sixteen years of age shall jointly become entitled to such pension until they attain the age of sixteen years respectively, commencing from the death or remarriage of the party who had the prior right to the pension: *Provided*, That a mother shall be assumed to have been dependent upon her son, within the meaning of this act, if, at the date of his death, she had no other adequate means of support than the ordinary proceeds of her own manual labor and the contributions of said son or of any other persons not legally bound to aid in her support; and if, by actual contributions or in any other way, the son had recognized his obligations to aid in support of said mother, or was by law bound to such support, and that a father or a minor brother or sister shall, in like manner and under like conditions, be assumed to have been dependent, except that the income which was derived or derivable from his actual or possible manual labor shall be taken into account in estimating a father's means of independent support: *Provided further*, That the pension allowed to any person on account of his or her dependence as hereinbefore provided shall not be paid for any period during which it shall not be necessary as a means of adequate subsistence.

SEC. 14. That the remarriage of any widow, dependent mother, or dependent sister, entitled to pension, shall not bar her right to such pension to the date of her remarriage, whether an application therefor was filed before or after such marriage; and that on the remarriage of any widow, dependent mother, or dependent sister, having a pension, such pension shall cease.

Sec. 4708, R. S.

SEC. 15. That all pensions which have been, or which may hereafter be, granted in consequence of death occurring from a cause which originated in the service since the fourth day of March, eighteen hundred and sixty-one, or in consequence of wounds or injuries received or disease contracted since said date, shall commence from the death or discharge of the person on whose account the claim has been or shall hereafter be granted, or from the termination of the right of party having prior title to such pension: *Provided*, That the application for such pension has been, or shall hereafter be, filed with the Commissioner of Pensions within five years after the right thereto shall have accrued; otherwise the pension shall commence from the date of filing the last evidence necessary to establish the same: *Provided further*, That the

Sec. 4709, R. S.
(Repealed.)

directed to pay such checks, drawn in pursuance of law by such officers or agents, upon notice and proof of the loss of the original check or checks, under such regulations in regard to their issue and payment, and upon the execution of such bonds, with sureties, to indemnify the United States, as the Secretary of the Treasury shall prescribe: *Provided*, That this act shall not apply to any check exceeding in amount the sum of one thousand dollars.

SEC. 2. That in case the disbursing officer or agent by whom such lost, destroyed, or stolen original check was issued, be dead, or no longer in the service of the United States, it shall be the duty of the proper accounting officer, under such regulations as the Secretary of the Treasury shall prescribe, to state an account in favor of the owner of such original check for the amount thereof, and to charge such amount to the account of such officer or agent.

Approved, February 2, 1872.

AN ACT to prohibit the retention of soldiers' discharges by claim-agents and attorneys.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any claim agent, attorney, or other person engaged in the collection of claims for pay, bounty, pension, or other allowance for any soldier, sailor, or marine, or for any commissioned officer of the military or naval forces, or who may have been a soldier, sailor, marine, or officer of the regular or volunteer forces of the United States, and honorably discharged, who shall retain, without the consent of the owner or owners thereof, or shall refuse to deliver or account for the same upon demand duly made by the owner or owners thereof, or by their agent or attorney, the discharge-papers or land-warrant of any such soldier, sailor, or marine, or commissioned officer, which may have been placed in his hands for the purpose of collecting said claims, shall be deemed guilty of a misdemeanor, and shall, upon conviction, be punished by fine not exceeding five hundred dollars, or by imprisonment not exceeding six months, or both, at the discretion of the court, and shall thereafter be debarred from prosecuting any such claim in any executive department of the government.

Approved May 21, 1872.

AN ACT increasing the rates of pension to certain persons therein described.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act entitled "An act supplementary to the several acts relating to pensions," approved June sixth, eighteen hundred and sixty-six, be so amended that from and after the passage of this act all persons entitled by law to a less pension than hereinafter specified, who, while in the military or naval service of the United States and in line of duty, shall have lost the sight of both eyes, or shall have lost both hands, or shall have lost both feet, or been permanently and totally disabled in the same, or otherwise so permanently and totally disabled as to render them utterly helpless, or so nearly so as to require the constant personal aid and attendance of another person, shall be entitled to a pension of thirty-one dollars and twenty-five cents per month; and all persons who under like circumstances shall have lost one hand and one foot, or been totally and permanently disabled in the same, or otherwise so disabled as to be incapacitated for performing any manual labor, but not so much as to require constant personal aid and attendance, shall be entitled to a pension of twenty-four dollars per month; and all persons who under like circumstances shall have lost one hand, or one foot, or been totally and permanently disabled in the same, or otherwise so disabled as to render their incapacity to perform manual labor equivalent to the loss of a hand or foot, shall be entitled to a pension of eighteen dollars per month, from and after the fourth day of June, eighteen hundred and seventy-two.

Approved June 8, 1872.

AN ACT to revise, consolidate, and amend the laws relating to pensions.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That if the ability of any officer of the army, including regulars, volunteers, and militia, or any officer in the navy or marine corps, or any enlisted man, however employed, in the military or naval service of the United States, or in its marine corps, whether regularly mustered or not, disabled by reason of any wound or injury received, or disease contracted, while in the service of the United States, and in the line of duty; any master serving on a gunboat, or any pilot, engineer, sailor, or other person not regularly mustered, serving upon any gunboat or war-vessel of the United States, dis-

abled by any wound or injury received, or otherwise incapacitated, while in the line of duty, for procuring his subsistence by manual labor; any person not an enlisted soldier in the army, serving for the time being as a member of the militia of any State under orders of an officer of the United States, or who volunteered for the time being to serve with any regularly organized military or naval force of the United States, or who otherwise volunteered and rendered service in any engagement with rebels or Indians, disabled in consequence of wounds or injury received in the line of duty in such temporary service; any acting assistant or contract surgeon, disabled by any wound or injury received or disease contracted in the line of duty while actually performing the duties of assistant surgeon or acting assistant surgeon with any military force in the field or in transitu or in hospital, or any provost-marshal, deputy provost-marshal, or enrolling officer, disabled by reason of any wound or injury received in the discharge of his duty, to procure a subsistence by manual labor, has been since the fourth day of March, eighteen hundred and sixty-one, or shall hereafter be impaired by reason of such disability, he shall, upon making due proof of the fact according to such forms and regulations as are or may be provided by and in pursuance of law, be placed upon the list of invalid pensioners of the United States, and be entitled to receive, for a total disability or a permanent specific disability, such pension as is hereinafter provided in such cases, and for an inferior disability, except in cases of permanent specific disability for which the rate of pension is expressly provided, an amount proportionate to that provided for total disability, to commence as hereinafter provided, and to continue during the existence of the disability: *Provided*, That no claim of a State militiaman, or non-enlisted person, on account of disability from wounds or injury received in battle with rebels or Indians, while temporarily rendering service, shall be valid unless prosecuted to a successful issue prior to the fourth day of July, eighteen hundred and seventy-four: *And*

Par. 3, sec. 4693,
R. S.

Sec. 4694, R. S.

provided further, That no person shall be entitled to a pension by reason of wounds or injury received or disease contracted in the service of the United States subsequent to the twenty-seventh day of July, eighteen hundred and sixty-eight, unless the person who was wounded or contracted the disease was in the line of duty; and, if in the military service, was at the time actually in the field, or on the march, or at some post, fort, or garrison, or en route by direction of competent authority to some post, fort, or garrison; or,

if in the naval service, was at the time borne on the books of some ship or other vessel of the United States, at sea or in harbor, actually in commission, or was at some naval station, or on his way, by direction of competent authority, to the United States, or to some other vessel, or naval station, or hospital.

SEC. 2. That the pension for total disability shall be as follows, namely: For lieutenant-colonel and all officers of higher rank in the military service and in the marine corps, and for captain, and all officers of higher rank, commander, surgeon, paymaster, and chief engineer, respectively ranking with commander by law, lieutenant commanding and master commanding, in the naval service, thirty dollars per month; for major in the military service and in the marine corps, and lieutenant, surgeon, paymaster, and chief engineer, respectively ranking with lieutenant by law, and passed assistant surgeon in the naval service, twenty-five dollars per month; for captain in the military service and in the marine corps, chaplain in the army, and provost marshal, professor of mathematics, master, assistant surgeon, assistant paymaster, and chaplain in the naval service, twenty dollars per month; for first lieutenant in the military service and in the marine corps, acting assistant or contract surgeon, and deputy provost-marshal, seventeen dollars per month; for second lieutenant in the military service and in the marine corps, first assistant engineer, ensign, and pilot in the naval service, and enrolling officer, fifteen dollars per month; for cadet-midshipman, passed midshipman, midshipmen, clerks of admirals and paymasters, and of other officers commanding vessels, second and third assistant engineer, master's mate, and all warrant officers in the naval service, ten dollars per month; and for all enlisted men whose rank or office is not mentioned in this section, eight dollars per month; and the masters, pilots, engineers, sailors, and crews upon the gunboats and war-vessels shall be entitled to receive the pension allowed herein to those of like rank in the naval service; and every commissioned officer of the army, navy, or marine corps, shall receive such and only such pensions as is herein provided for the rank he held at the time he received the injury, or contracted the disease which resulted in the disability, on account of which he may be entitled to a pension; and any commission or presidential appointment, regularly issued to such person, shall be taken to determine his rank from and after the date, as given in the body of the commission or appointment conferring said rank: *Provided*, That a va-

Sec. 4695, R. S.

Sec. 4696, R. S.

cancy existed in the rank thereby conferred ; that the person commissioned was not so disabled for military duty ; and that he did not willfully neglect or refuse to be mustered.

Sec. 4697, R. S.

SEC. 3. That for the period commencing July fourth, eighteen hundred and sixty-four, and ending June third, eighteen hundred and seventy-two, those persons entitled to a less pension than hereinafter mentioned, who shall have lost both feet in the military or naval service and in the line of duty, shall be entitled to a pension of twenty dollars per month ; for the same period those persons who, under like circumstances, shall have lost both hands or the sight of both eyes, shall be entitled to a pension of twenty-five dollars per month ; and for the period commencing March third, eighteen hundred and sixty-five, and ending June third, eighteen hundred and seventy-two, those persons who under like circumstances shall have lost one hand and one foot, shall be entitled to a pension of twenty dollars per month ; and for the period commencing June sixth, eighteen hundred and sixty-six, and ending June third, eighteen hundred and seventy-two, those persons who under like circumstances shall have lost one hand or one foot, shall be entitled to a pension of fifteen dollars per month ; and for the period commencing June sixth, eighteen hundred and sixty-six, and ending June third, eighteen hundred and seventy-two, those persons entitled to a less pension than hereinafter mentioned, who by reason of injury received or disease contracted in the military or naval service of the United States and in the line of duty, shall have been permanently and totally disabled in both hands, or who shall have lost the sight of one eye, the other having been previously lost, or who shall have been otherwise so totally and permanently disabled as to render them utterly helpless, or so nearly so as to require regular personal aid and attendance of another person, shall be entitled to a pension of twenty-five dollars per month ; and for the same period those who under like circumstances shall have been totally and permanently disabled in both feet, or in one hand and one foot, or otherwise so disabled as to be incapacitated for the performance of any manual labor, but not so much as to require regular personal aid and attention, shall be entitled to a pension of twenty dollars per month ; and for the same period all persons who under like circumstances shall have been totally and permanently disabled in one hand, or one foot, or otherwise so disabled as to render their inability to perform manual labor equivalent to the loss of a hand or foot, shall be entitled to a pension of fifteen dollars per month.

SEC. 4. That from and after June fourth, eighteen hundred and seventy-two, all persons entitled by law to a less pension than hereinafter specified, who, while in the military or naval service of the United States, and in line of duty, shall have lost the sight of both eyes, or shall have lost the sight of one eye, the sight of the other having been previously lost, or shall have lost both hands, or shall have lost both feet, or been permanently and totally disabled in the same, or otherwise so permanently and totally disabled as to render them utterly helpless, or so nearly so as to require the regular personal aid and attendance of another person, shall be entitled to a pension of thirty-one dollars and twenty-five cents per month; and all persons who, under like circumstances, shall have lost one hand and one foot, or been totally and permanently disabled in the same, or otherwise so disabled as to be incapacitated for performing any manual labor, but not so much as to require regular personal aid and attendance, shall be entitled to a pension of twenty-four dollars per month; and all persons who, under like circumstances, shall have lost one hand, or one foot, or been totally and permanently disabled in the same, or otherwise so disabled as to render their incapacity to perform manual labor equivalent to the loss of a hand or foot, shall be entitled to a pension of eighteen dollars per month: *Provided*, That all persons who, under like circumstances, have lost a leg above the knee, and in consequence thereof are so disabled that they cannot use artificial limbs, shall be rated in the second class and receive twenty-four dollars per month; and all persons who, under like circumstances, shall have lost the hearing of both ears shall be entitled to a pension of thirteen dollars per month: *Provided*, That the pension for a disability not permanent, equivalent in degree to any provided for in this section, shall, during the continuance of the disability in such degree, be at the same rate as that herein provided for a permanent disability of like degree: *Provided further*, That, except in cases of permanent, specific disabilities, no increase of pension shall be allowed to commence prior to the date of the examining surgeon's certificate; and that in this, as well as all other cases, the certificate of an examining surgeon, or of a board of examining surgeons' shall be subject to the approval of the Commissioner of Pensions.

Sec. 4000, R. S.

SEC. 5. That the rate of eighteen dollars per month may be proportionately divided for any degree of disability established for which the second section of this acts makes no provision.

Sec. 4000, R. S.

Sec. 4700, R. S. SEC. 6. That officers absent on sick-leave, and enlisted men absent on sick-furlough, or on veteran-furlough, while with the organization to which they belong, shall be regarded in the administration of the pension laws in the same manner as if they were in the field or hospital.

Sec. 4701, R. S. SEC. 7. That the period of service of all persons entitled to the benefit of the pension laws, or on account of whose death any person may become entitled to a pension, shall be construed to extend to the time of disbanding the organization to which such person belonged, or until their actual discharge for other cause than the expiration of the service of such organization.

Sec. 4702, R. S. SEC. 8. That if any person embraced within the provisions of the first section of this act has died since the fourth day of March, eighteen hundred and sixty-one, or shall hereafter die, by reason of any wound, injury, or disease, which, under the conditions and limitations of said section, would have entitled him to an invalid pension had he been disabled, his widow, or if there be no widow, or in case of her death without payment to her of any part of the pension hereinafter mentioned, his child or children, under sixteen years of age, shall be entitled to receive the same pension as the husband or father would have been entitled to had he been totally disabled, to commence from the death of the husband or father, to continue to the widow during her widowhood, and to his child or children until they severally attain the age of sixteen years, and no longer, and that if the widow remarry, the child or children shall be entitled from the date of remarriage. That the provisions of this act are hereby extended to and made to embrace the officers and privates of the Missouri State militia, and the provisional Missouri militia, disabled by reason of injury received or disease contracted in the line of duty while such militia was co-operating with United States forces, and the widow or children of any such person, dying of injury received or disease contracted under the circumstances herein set forth, shall be entitled to the benefits of this act: *Provided*, That the pensions on account of such militia shall not commence prior to the date of the passage of this act. That the provisions of this section shall be so interpreted as to apply to the widows, child or children of officers and privates of the Missouri State militia, and the provisional Missouri militia, if the husband or father was wounded, or contracted the disease of which he died, while in the service of the Government of the United States.

SEC. 9. That the pensions of widows shall be increased from and after the twenty-fifth day of July, eighteen hundred and sixty-six, at the rate of two dollars per month for each child under the age of sixteen years, of the husband on account of whose death the claim has been or shall be granted. And in every case in which the deceased husband has left, or shall leave, no widow, or where his widow has died or married again, or where she has been deprived of her pension under the provisions of the pension law, the pension granted to such child or children shall be increased to the same amount per month that would be allowed under the foregoing provisions to the widow, if living and entitled to a pension: *Provided*, That the additional pension herein granted to the widow on account of the child or children of the husband by a former wife shall be paid to her only for such period of her widowhood as she has been, or shall be, charged with the maintenance of such child or children; for any period during which she has not been, or she shall not be, so charged, it shall be granted and paid to the guardian of such child or children: *Provided further*, That a widow or guardian to whom increase of pension has been, or shall hereafter be, granted on account of minor children, shall not be deprived thereof by reason of their being maintained in whole or in part at the expense of a State or the public in any educational institution, or in any institution organized for the care of soldiers' orphans. Sec. 4703, R. S.

SEC. 10. That in the administration of the pension laws, children born before the marriage of their parents, if acknowledged by the father before or after the marriage, shall be deemed legitimate. Sec. 4704, R. S.

SEC. 11. That the widows of colored or Indian soldiers and sailors who have died, or shall hereafter die, by reason of wounds or injuries received, or casualty received or disease contracted, in the military or naval service of the United States, and in the line of duty, shall be entitled to receive the pension provided by law without other evidence of marriage than satisfactory proof that the parties were joined in marriage by some ceremony deemed by them obligatory, or habitually recognized each other as man and wife, and were so recognized by their neighbors, and lived together as such up to the date of enlistment, when such soldier or sailor died in the service, or, if otherwise, to date of death; and the children born of any marriage so proved shall be deemed and held to be lawful children of such soldier or sailor: *Provided*, That this section shall not be applicable Sec. 4705, R. S.

to any claims on account of persons who shall have enlisted after the passage of this act.

Sec. 4706, R. S. SEC. 12. That if any person has died, or shall hereafter die, leaving a widow entitled to a pension by reason of his death, and a child or children under sixteen years of age by such widow, and it shall be duly certified under seal by any court having probate jurisdiction, that satisfactory evidence has been produced before such court upon due notice to the widow that the widow aforesaid has abandoned the care of such child or children, or that she is an unsuitable person, by reason of immoral conduct, to have the custody of the same, or on presentation of satisfactory evidence thereof to the Commissioner of Pensions, then no pension shall be allowed to such widow until such child or children shall have attained the age of sixteen years, any provisions of this act or of any previous act to the contrary notwithstanding; and the said child or children aforesaid shall be pensioned in the same manner, and from the same date, as if no widow had survived such person, and such pension shall be paid to the guardian of such child or children: *Provided*, That if in any case payment of pension shall have been made to the widow, the pension to the child or children shall commence from the date to which her pension has been paid.

Sec. 4707, R. S. SEC. 13. That if any person embraced within the provisions of the first section of this act has died since the fourth day of March, eighteen hundred and sixty-one, or shall hereafter die, by reason of any wound, injury, casualty, or disease, which, under the conditions and limitations of said section, would have entitled him to an invalid pension, and has not left or shall not leave a widow or legitimate child, but has left or shall leave other relative or relatives who were dependent upon him for support at the date of his death, such relative or relatives shall be entitled in the following order of precedence to receive the same pension, as such person would have been entitled to had he been totally disabled, to commence from the death of such person, namely, first, the mother; secondly, the father; thirdly, orphan brothers and sisters under sixteen years of age, who shall be pensioned jointly: *Provided*, That where orphan children of the same parent have different guardians, or a portion of them only are under guardianship, the share of the joint pension to which each ward shall be entitled shall be paid to the guardian of such ward: *Provided*, That if in any case said person shall have left father and mother who are dependent upon him, then, on the death of the mother, the father shall become entitled to the pension, commencing

from and after the death of the mother; and upon the death of the mother and father, or upon the death of the father and the remarriage of the mother, the dependent brothers and sisters under sixteen years of age shall jointly become entitled to such pension until they attain the age of sixteen years respectively, commencing from the death or remarriage of the party who had the prior right to the pension: *Provided*, That a mother shall be assumed to have been dependent upon her son, within the meaning of this act, if, at the date of his death, she had no other adequate means of support than the ordinary proceeds of her own manual labor and the contributions of said son or of any other persons not legally bound to aid in her support; and if, by actual contributions or in any other way, the son had recognized his obligations to aid in support of said mother, or was by law bound to such support, and that a father or a minor brother or sister shall, in like manner and under like conditions, be assumed to have been dependent, except that the income which was derived or derivable from his actual or possible manual labor shall be taken into account in estimating a father's means of independent support: *Provided further*, That the pension allowed to any person on account of his or her dependence as hereinbefore provided shall not be paid for any period during which it shall not be necessary as a means of adequate subsistence.

SEC. 14. That the remarriage of any widow, dependent mother, or dependent sister, entitled to pension, shall not bar her right to such pension to the date of her remarriage, whether an application therefor was filed before or after such marriage; and that on the remarriage of any widow, dependent mother, or dependent sister, having a pension, such pension shall cease. Sec. 4708, R. S.

SEC. 15. That all pensions which have been, or which may hereafter be, granted in consequence of death occurring from a cause which originated in the service since the fourth day of March, eighteen hundred and sixty-one, or in consequence of wounds or injuries received or disease contracted since said date, shall commence from the death or discharge of the person on whose account the claim has been or shall hereafter be granted, or from the termination of the right of party having prior title to such pension: *Provided*, That the application for such pension has been, or shall hereafter be, filed with the Commissioner of Pensions within five years after the right thereto shall have accrued; otherwise the pension shall commence from the date of filing the last evidence necessary to establish the same: *Provided further*, That the Sec. 4709, R. S.
(Repealed.)

limitation herein prescribed shall not apply to claims by or in behalf of insane persons or persons under sixteen years.

Sec. 4710, R. S. SEC. 16. That in construing the preceding section, the right of persons entitled to pensions shall be recognized as accruing at the date therein stated for the commencement of such pension, and that the right of a dependent father or dependent brother to pension shall not in any case be held to have accrued prior to the sixth day of June, eighteen hundred and sixty-six; and the right of all other classes of claimants, if applying on account of the death of a person who was regularly mustered into the service, or regularly employed in the Navy, or upon the gunboats or war vessels of the United States, shall not be held to have accrued prior to the fourteenth day of July, eighteen hundred and sixty-two; if applying on account of a chaplain of the Army, their right shall not be held to have accrued prior to the ninth day of April, eighteen hundred and sixty-four; if applying on account of an enlisted soldier who was not mustered, or a non-enlisted man in temporary service, their right shall not be held to have accrued prior to the fourth day of July, eighteen hundred and sixty-four; if applying on account of an acting assistant or contract surgeon, their right shall not be held to have accrued prior to the third day of March, eighteen hundred and sixty-five; if applying on account of persons enlisted as teamsters, wagoners, artificers, hospital stewards, or farriers, their right shall not be held to have accrued prior to the sixth day of June, eighteen hundred and sixty-six; and the right of all classes of claimants, applying on account of a provost-marshal, deputy provost-marshal, or enrolling officer, shall not be held to have accrued prior to the twenty-fifth day of July, eighteen hundred and sixty-six: *Provided*, That the right of a widow or dependent mother who married prior, and did not apply till subsequent to the twenty-seventh day of July, eighteen hundred and sixty-eight, shall not be held to have accrued prior to that date.

Sec. 4711, R. S. SEC. 17. That it shall be the duty of the Commissioner of Pensions, upon any application by letter or otherwise by or on behalf of any pensioner entitled to arrears of pension under the fifteenth section of this act, or, if any such pensioner shall have died, upon a similar application by or on behalf of any person entitled to receive the accrued pension due such pensioner at his or her death, to pay or cause to be paid to such pensioner, or other person, all such arrears of pension as the pensioner may be entitled to, or (if dead) would have been entitled to under the provisions of said

section had he or she survived; and no claim-agent or other persons shall be entitled to receive any compensation for services in making application for arrears of pension.

Sec. 4712, R. S.

SEC. 18. That the provisions of this act in respect to the rates of pension are hereby extended to pensioners whose right to pension accrued under general acts passed since the war of the Revolution and prior to the fourth of March, eighteen hundred and sixty-one, to take effect from and after the twenty-fifth day of July, eighteen hundred and sixty-six; and that the widows of revolutionary soldiers and sailors receiving a less sum shall be paid at the rate of eight dollars per month from and after the twenty-seventh day of July, eighteen hundred and sixty-eight.

Sec. 4713, R. S.

SEC. 19. That in all cases in which the cause of disability or death originated in the service prior to the fourth day of March, eighteen hundred and sixty-one, and an application for pension shall not have been filed within three years from the discharge or death of the person on whose account the claim is made, or within three years of the termination of a pension previously granted on account of the service and death of the same person, the pension shall commence from the date of filing, by the party prosecuting the claim, the last paper requisite to establish the same: *Provided*, That no claim allowed prior to the sixth day of June, eighteen hundred and sixty-six, shall be affected by anything herein contained.

Sec. 4715, R. S.

SEC. 20. That nothing in this act shall be so construed as to allow more than one pension at the same time to the same person or to persons entitled jointly; but any pensioner who shall so elect may surrender his or her certificate, and receive, in lieu thereof, a certificate for any other pension to which he or she would have been entitled had not the surrendered certificate been issued: *Provided*, That all payments previously made for any period covered by the new certificate shall be deducted from the amount allowed by said certificate.

Sec. 4714, R. S.

SEC. 21. That declarations of pension claimants shall be made before a court of record, or before some officer thereof having custody of its seal, said officer hereby being fully authorized and empowered to administer and certify any oath or affirmation relating to any pension or application therefor: *Provided*, That the Commissioner of Pensions may designate, in localities more than twenty-five miles distant from any place at which such court is holden, persons duly qualified to administer oaths, before whom declarations may be made and testimony taken, and may accept declara-

tions of claimants residing in foreign countries, made before a United States minister or consul, or before some officer of the country duly authorized to administer oaths for general purposes, and whose official character and signature shall be duly authenticated by the certificate of a United States minister or consul; declarations in claims of Indians made before a United States agent; and declarations in claims under the act of February fourteenth, eighteen hundred and seventy-one, made before an officer duly authorized to administer oaths for general purposes, when the applicants, by reason of infirmity of age, are unable to travel: *Provided*, That any declaration made before an officer duly authorized to administer oaths for general purposes shall be accepted to exempt a claim from the limitation as to date of filing prescribed in the fifteenth section of this act.

Sec. 4748, R. S.

SEC. 22. That the Commissioner of Pensions, on application being made to him in person or by letter by any claimant or applicant for pension, bounty-land, or other allowance required by law to be adjusted or paid by the Pension-Office, shall furnish such person, free of all expense to him or her, all such printed instructions and forms as may be necessary in establishing and obtaining said claim; and on the issuing of a certificate of pension, or of a bounty-land warrant, he shall forthwith notify the claimant or applicant, and also the agent or attorney in the case, if there be one, that such certificate has been issued, or allowance made, and the date and amount thereof.

Sec. 4716, R. S.

SEC. 23. That no money on account of pension shall be paid to any person, or to the widow, children, or heirs of any deceased person, who in any manner voluntarily engaged in, or aided or abetted, the late rebellion against the authority of the United States.

Sec. 4717, R. S.
(Repealed.)

SEC. 24. That no claim for pension not prosecuted to successful issue within five years from the date of filing the same shall be admitted without record evidence from the War or Navy Department of the injury or the disease which resulted in the disability or death of the person on whose account the claim is made: *Provided*, That in any case in which the limitation prescribed by this section bars the further prosecution of the claim, the claimant may present, through the Pension-Office, to the Adjutant-General of the army or the Surgeon-General [or Secretary] of the navy, evidence that the disease or injury which resulted in the disability or death of the person on whose account the claim is made, originated in the service and in the line of duty;

and if such evidence is deemed satisfactory by the officer to whom it may be submitted, he shall cause a record of the fact so proved to be made, and a copy of the same to be transmitted to the Commissioner of Pensions, and the bar to the prosecution of the claim shall thereby be removed.

SEC. 25. That if any pensioner, or any person entitled to a pension, who during the pendency of his application therefor has died since March fourth, eighteen hundred and sixty-one, or shall hereafter die, his widow, or if no widow, his child or children, under sixteen years of age at the time of his death, shall be entitled to receive the accrued pension to the date of death, such accrued pension shall not be considered as a part of the assets of the estate of deceased, nor liable to be applied to the payment of the debts of said estate in any case whatever, but shall inure to the sole and exclusive benefit of the widow or children; and if no widow or child survive, no payment whatsoever of the accrued pension shall be made or allowed, except so much as may be necessary to reimburse the person who bore the expense of the last sickness and burial of the decedent, in cases where he did not leave sufficient assets to meet such expenses.

Sec. 4718, R. S.

SEC. 26. That the failure of any pensioner to claim his or her pension for three years after the same shall have become due shall be deemed presumptive evidence that such pension has legally terminated by reason of the pensioner's death, remarriage, recovery from the disability, or otherwise, and the pensioner's name shall be stricken from the list of pensioners, subject to the right of restoration to the same on a new application by the pensioner, or, if the pensioner is dead, by the widow or minor children entitled to receive the accrued pension, accompanied by evidence satisfactorily accounting for the failure to claim such pension, and by medical evidence in cases of invalids who were not exempt from biennial examinations as to the continuance of the disability.

Sec. 4719, R. S.

SEC. 27. That when the rate, commencement, and duration of a pension allowed by special act are fixed by such act, they shall not be subject to be varied by the provisions and limitations of the general pension laws, but when not thus fixed the rate and continuance of the pension shall be subject to variation in accordance with the general laws, and its commencement shall date from the passage of the special act, and the Commissioner of Pensions shall, upon satisfactory evidence that fraud was perpetrated in obtaining such special act, suspend payment thereupon until the

Sec. 4720, R. S.

propriety of repealing the same can be considered by Congress.

Sec. 4721, R. S. SEC. 28. That the term of limitation prescribed by sections sixteen [fifteen] and twenty-three [twenty-four] of this act shall, in pending claims of Indians, be extended to two years from and after the passage of this act; that all proof which has heretofore been taken before an Indian agent, or before an officer of any tribe, competent according to the rules of said tribe to administer oaths, shall be held and regarded by the Pension-Office, in the examining and determining of claims of Indians now on file, as of the same validity as if taken before an officer recognized by the law at the time as competent to administer oaths; that all proof wanting in said claims hereafter, as well as in those filed after the passage of this act, shall be taken before the agent of the tribe to which the claimants respectively belong; that in regard to dates, all applications of Indians now on file be treated as though they were made before a competent officer at their respective dates, and if found to be in all other respects conclusive, they shall be allowed; and that Indians shall be exempted from the obligation to take the oath to support the Constitution of the United States, required by the act of February fourteenth, eighteen hundred and seventy-one, providing for pensions to certain soldiers and sailors of the war of eighteen hundred and twelve, and to widows of deceased soldiers.

Sec. 472, R. S. SEC. 29. That the president shall appoint in the Department of the Interior, by and with the advice and consent of the Senate, a competent person, who shall be called the Deputy Commissioner of Pensions, with an annual salary of twenty-five hundred dollars, who shall be charged with such duties in the Pension bureau as may be prescribed by the Secretary of the Interior or may be required by law; and in case of the death, resignation, absence, or sickness of the Commissioner, his duties shall devolve upon the Deputy Commissioner until a successor shall be appointed, or such absence or sickness shall cease.

Sec. 4744, R. S. SEC. 30. That the Commissioner of Pensions is hereby authorized and empowered to detail, from time to time, clerks in his office to investigate suspected attempts at fraud on the government of the United States, through and by virtue of the provisions of this or any other act of Congress providing for pensions, and to aid in prosecuting any person so offending, with such additional compensation as is customary in cases of special service; and that any person

so detailed shall have the power to administer oaths and take affidavits in the course of any such investigation.

SEC. 31. That no agent or attorney or other person instrumental in prosecuting any claim for pension or bounty-land shall demand or receive any other compensation for his services in prosecuting a claim for pension or bounty-land than such as the Commissioner of Pensions shall direct to be paid to him, not exceeding twenty-five dollars; and any agent or attorney or any other person instrumental in prosecuting any claim for pension or bounty-land, who shall directly or indirectly contract for, demand, or receive or retain any greater compensation for his services or instrumentality in prosecuting a claim for pension or bounty-land than is hereinbefore provided, or who shall wrongfully withhold from a pensioner or claimant the whole or any part of the pension or claim allowed and due such pensioner or claimant, or the land-warrant issued to any such claimant, shall be deemed guilty of a high misdemeanor, and, upon conviction thereof, shall, for every such offense, be fined not exceeding five hundred dollars, or imprisoned at hard labor not exceeding two years, or both, at the discretion of the court. And if any guardian having the charge and custody of the pension of his ward shall embezzle the same in violation of his trust, or fraudulently convert the same to his own use, he shall be punished by fine not exceeding two thousand dollars or imprisonment at hard labor for a term not exceeding five years, or both, at the discretion of the court.

Secs. 4785 and 5485, R. S.

SEC. 32. That any pledge, mortgage, sale, assignment, or transfer of any right, claim, or interest in any person which has been or may hereafter be granted, shall be void and of no effect; and any person acting as attorney to receive and receipt for money for and in behalf of any person entitled to a pension shall, before receiving said money, take and subscribe an oath, to be filed with the pension-agent, and by him to be transmitted, with the vouchers now required by law, to the proper accounting officer of the treasury, that he has no interest in said money by any pledge, mortgage, sale, assignment, or transfer, and that he does not know or believe that the same has been so disposed of to any person; and any person who shall falsely take the said oath shall be guilty of perjury, and, on conviction, shall be liable to the pains and penalties of perjury.

Sec. 4745, R. S.

SEC. 33. That any person who shall knowingly or willfully in any wise procure the making or presentation of any false or fraudulent affidavit concerning any claim for pension or payment thereof, or pertaining to any other matter within

Sec. 4746, R. S.

the jurisdiction of the Commissioner of Pensions, or shall knowingly or willfully present or cause to be presented at any pension agency any power of attorney, or other paper required as a voucher in drawing a pension, which paper shall bear a date subsequent to that on which it was actually signed or executed, such person so offending shall be deemed guilty of a high misdemeanor, and shall, on conviction thereof, be punished by a fine not exceeding five hundred dollars, or by imprisonment for a term not exceeding three years, or by both, at the discretion of the court before

Sec. 4747, R. S. whom such conviction shall be had; and no sum of money due, or to become due, to any pensioner under the laws aforesaid, shall be liable to attachment, levy, or seizure, by or under any legal or equitable process whatever, whether the same remains with the Pension-Office, or any officer or agent thereof, or is in course of transmission to the pensioner entitled thereto, but shall inure wholly to the benefit of such pensioner.

Sec. 4771, R. S. SEC. 34. That in all cases of application for the payment of pensions to invalid pensioners to the fourth day of September of an odd year, the certificate of an examining surgeon duly appointed by the Commissioner of Pensions, or of a surgeon of the army or navy, stating the continuance of the disability for which the pension was originally granted, (describing it,) and the degree of such disability at the time of making the certificate, shall be required to accompany the vouchers, and a duplicate thereof shall be filed in the office of the Commissioner of Pensions; and if in a case of continued disability it shall be stated at a degree below that for which the pension was originally granted, or was last paid, the pensioner shall only be paid for the quarter then due at the rate stated in the certificate: *Provided*, That when a pension shall be granted for a disability consequent upon the loss of a limb, or other essential portion of the body, or for other cause which cannot in whole or in part be removed, or when a disability is certified by competent examining surgeons, to the satisfaction of the Commissioner of Pensions, to have become permanent in a degree equal to the whole rate of pension, the above certificate shall not be necessary to entitle the pensioner to payment: *And provided further*, That this section shall not be construed to prevent the Commissioner of Pensions from requiring a more frequent examination if, in his judgment, it is necessary.

Sec. 4777, R. S. SEC. 35. That the Commissioner of Pensions be, and he is hereby, empowered to appoint, at his discretion, civil sur-

geons to make the periodical examinations of pensioners which are, or may be, required by law, and to examine applicants for pension, where he shall deem an examination by a surgeon appointed by him necessary; and the fee for such examinations, and the requisite certificates thereof in duplicate, including postage on such as are transmitted to pension agents, shall be two dollars, which shall be paid by the agent for paying pensions in the district within which the pensioner or claimant resides, out of any money appropriated for the payment of pensions, under such regulations as the Commissioner of Pensions may prescribe.

SEC. 36. That the Commissioner of Pensions be authorized to organize, at his discretion, boards of examining surgeons, not to exceed three members, and that each member of a board thus organized who shall have been actually present and made, in connection with other members or member, an ordered or periodical examination, shall be entitled to the fee of one dollar, on the receipt of a proper certificate of said examination by the Commissioner of Pensions.

Sec. 4774, S. R. •

SEC. 37. That examining surgeons duly appointed by the Commissioner of Pensions, and such other qualified surgeons as may be employed in the Pension-Office, may be required by him, from time to time, as he shall deem for the interests of the Government, to make special examinations of pensioners, or applicants for pension, and such examinations shall have precedence over previous examinations, whether special or biennial; but when injustice is alleged to have been done by an examination so ordered, the Commissioner of Pensions may, at his discretion, select a board of three duly-appointed examining surgeons, who shall meet at a place to be designated by him, and shall review such cases as may be ordered before them on appeal from any special examination as aforesaid, and the decision of such board shall be final on the question so submitted thereto, provided the Commissioner approved the same. The compensation of each of such surgeons shall be three dollars and shall be paid out of any appropriations made for the payment of pensions, in the same manner as the ordinary fees of appointed surgeons are or may be authorized to be paid.

Sec. 4775, R. S.

SEC. 38. That the Secretary of the Interior be, and is hereby, authorized to appoint a duly qualified surgeon as medical referee, who, under the control and direction of the Commissioner of Pensions, shall have charge of the examination and revision of the reports of examining surgeons, and such other duties touching medical and surgical questions in the Pension-Office as the interests of the service

Sec. 4776, R. S.

may demand; and his salary shall be two thousand five hundred dollars per annum. And the Secretary of the Interior is further authorized to appoint such qualified surgeons (not exceeding four) as the exigencies of the service may require, who may perform the duties of examining surgeons when so required, and who shall be borne upon the rolls as clerks of the fourth class: *Provided*, That such appointments shall not increase the clerical force of said bureau.

SEC. 39. That all acts and parts of acts inconsistent or in conflict with the foregoing provisions of this act are hereby repealed.

Approved March 3, 1873.

REVISED STATUTES,

CONTAINING THE

PENSION LAWS NOW IN FORCE WHICH WERE ENACTED BETWEEN
MARCH 4, 1861, AND MARCH 4, 1873, TOGETHER WITH SUCH
ANTE-REBELLION LAWS AS WERE RE-ENACTED

IN SAID STATUTES.



REVISED STATUTES NOW IN FORCE.

SEC. 4692. Every person specified in the several classes enumerated in the following section, who has been, since the fourth day of March, eighteen hundred and sixty-one, or who is hereafter disabled under the conditions therein stated, shall, upon making due proof of the fact, according to such forms and regulations as are or may be provided in pursuance of law, be placed on the list of invalid pensioners of the United States, and be entitled to receive, for a total disability, or a permanent specific disability, such pension as is hereinafter provided in such cases; and for an inferior disability, except in cases of permanent specific disability, for which the rate of pension is expressly provided, an amount proportionate to that provided for total disability; and such pension shall commence as hereinafter provided, and continue during the existence of the disability.

Who are entitled to pensions.
 Sec. 1, 3 Mar., 1873.
 Sec. 1, 14 July, 1862.
 Act 6 June, 1874.
 Act 3 Mar., 1877.

Acts 25 Jan. and 3 Mar., 1879.

SEC. 4693. The persons entitled as beneficiaries under the preceding section are as follows:

Beneficiaries under preceding section.

First. Any officer of the Army, including regulars, volunteers, and militia, or any officer in the Navy or Marine Corps, or any enlisted man, however employed, in the military or naval service of the United States, or in its Marine Corps, whether regularly mustered or not, disabled by reason of any wound or injury received, or disease contracted, while in the service of the United States and in the line of duty.

Sec. 1, 3 Mar., 1873.
 Sec. 1, 14 July, 1862.
 Act 3 Mar., 1877.
 Whether regularly mustered or not.

Second. Any master serving on a gunboat, or any pilot, engineer, sailor, or other person not regularly mustered, serving upon any gunboat or war-vessel of the United States, disabled by any wound or injury received, or otherwise incapacitated, while in the line of duty, for procuring his subsistence by manual labor.

Sec. 11, 4 July, 1864.
 Sec. 1, 3 Mar., 1873.
 Sec. 10, 14 July, 1862.
 Masters.

Third. Any person not an enlisted soldier in the Army, serving for the time being as a member of the militia of any State, under orders of an officer of the United States, or who volunteered for the time being to serve with any regularly organized military or naval force of the United States,

Resolution, 16 July, 1863.

Sec. 1, 3 Mar., 1873.

Sec. 9, 4 July, 1864. or who otherwise volunteered and rendered service in any

engagement with rebels or Indians, disabled in consequence of wounds or injury received in the line of duty in such temporary service. But no claim of a State militiaman, or non-enlisted person, on account of disability from wounds or injury received in battle with rebels or Indians, while temporarily rendering service, shall be valid unless prosecuted to a successful issue prior to the fourth day of July, eighteen hundred and seventy-four.

Sec. 11, 27 July, 1863.

Sec. 1, 3 Mar., 1873.

Sec. 2, 3 Mar., 1866.

Fourth. Any acting assistant or contract surgeon disabled by any wound or injury received or disease contracted in the line of duty while actually performing the duties of assistant surgeon or acting assistant surgeon with any military force in the field, or in transitu or in hospital.

Sec. 1, 3 Mar., 1873.

Sec. 1, 25 July, 1866.

Fifth. Any provost-marshal, deputy provost-marshal, or enrolling-officer disabled, by reason of any wound or injury, received in the discharge of his duty, to procure a subsistence by manual labor.

Limitation in cases of disability incurred since July 27, 1863.

Sec. 1, 3 Mar., 1873.

Sec. 2, 27 July, 1868.

SEC. 4694. No person shall be entitled to a pension by reason of wounds or injury received or disease contracted in the service of the United States subsequent to the twenty-seventh day of July, eighteen hundred and sixty-eight, unless the person who was wounded, or injured, or contracted the disease was in the line of duty; and, if in the military service, was at the time actually in the field, or on the march, or at some post, fort, or garrison, or en route, by direction of competent authority, to some post, fort, or garrison; or, if in the naval service, was at the time borne on the books of some ship or other vessel of the United States, at sea or in harbor, actually in commission, or was at some naval station, or on his way, by direction of competent authority, to the United States, or to some other vessel, or naval station, or hospital.

Rate of pension prescribed for total disabilities.

Sec. 2, 3 Mar., 1873.

Sec. 1, 14 July, 1862.

SEC. 4695. The pension for total disability shall be as follows, namely: For lieutenant-colonel and all officers of higher rank in the military service and in the Marine Corps, and for captain and all officers of higher rank, commander, surgeon, paymaster, and chief engineer, respectively ranking with commander by law, lieutenant commanding and master commanding, in the naval service, thirty dollars per month; for major in the military service and in the Marine Corps, and lieutenant, surgeon, paymaster, and chief engineer, respectively ranking with lieutenant by law, and passed assistant surgeon in the naval service, twenty-five

dollars per month; for captain in the military service and in the Marine Corps, chaplain in the Army, and provost-marshal, professor of mathematics, master, assistant surgeon, assistant paymaster, and chaplain in the naval service, twenty dollars per month; for first lieutenant in the military service and in the Marine Corps, acting assistant or contract surgeon, and deputy provost-marshal, seventeen dollars per month; for second lieutenant in the military service and in the Marine Corps, first assistant engineer, ensign, and pilot in the naval service, and enrolling-officer, fifteen dollars per month; for cadet-midshipman, passed midshipman, midshipmen, clerks of admirals, and paymasters, and of other officers commanding vessels, second and third assistant engineer, master's mate, and all warrant-officers in the naval service, ten dollars per month; and for all other persons, whose rank or office is not mentioned in this section, eight dollars per month; and the masters, pilots, engineers, sailors, and crews upon the gunboats and war-vessels shall be entitled to receive the pension allowed herein to those of life-rank in the naval service.*

Enrolling officer, provost, and deputy provost marshal.

Sec. 1, 25 July, 1866.

Contract surgeon.

Sec. 2, 3 Mar., 1865.

SEC. 4696. Every commissioned officer of the Army, Navy, or Marine Corps shall receive such and only such pension as is provided in the preceding section for the rank he held at the time he received the injury or contracted the disease which resulted in the disability on account of which he may be entitled to a pension; and any commission or presidential appointment, regularly issued to such person, shall be taken to determine his rank from and after the date, as given in the body of the commission or appointment conferring said rank: *Provided*, That a vacancy existed in the rank thereby conferred; that the person commissioned was not disabled for military duty; and that he did not willfully neglect or refuse to be mustered.

Rate of pension shall be according to rank held at time disability was contracted.

Sec. 2, 3 Mar., 1873.

Sec. 1, 14 July, 1862.

Commission determines rank from and after date given in the body of the commission.

Sec. 7, 6 June, 1866.

SEC. 4697. For the period commencing July fourth, eighteen hundred and sixty-four, and ending June third, eighteen hundred and seventy-two, those persons entitled to a less pension than hereinafter mentioned, who shall have lost both feet in the military or naval service and in the line of duty, shall be entitled to a pension of twenty dollars per month;

Rate and commencement of pension for permanent and specific disabilities subsequent to July 4, 1861, and prior to June 3, 1872.

Sec. 3, 3 Mar., 1873.

Sec. 5, 4 July, 1864.

*As to rate for passed-assistant engineers, assistant engineers, and cadet-engineers in the Navy, see act March 3, 1877. As to rate for "Ensigns," "Cadet-midshipman," "clerks of Admirals," "and of other officers commanding vessels," see sec. 2, 3 March, 1873. For lieutenant commanders see act 18 June, 1878.

See Sec. 1, 6 June, 1866, and sec. 5, 25 July, 1866.

Sec. 3, 3 Mar., 1865.

For loss of hand
and foot, see act
28 Feb., 1877.

For loss of both
hands, both eyes,
or both feet, see
act 17 June, 1878,
and 3 March, 1879.

For leg ampu-
tated at hip joint,
see act 3 March,
1879.

Sec. 1, act 6
June, 1866.

Sec. 12, act 27
July, 1868.

As to total and
permanent help-
lessness, see
amendment act
18 June, 1874, and
act 16 June, 1880.

Rate and com-
mencement of
pension for per-
manent and spe-
cific disabilities
subsequent to
June 4, 1872.

Sec. 4, 3 Mar.,
1873.

Act 8 June,
1872.

for the same period those persons who, under like circum-
stances, shall have lost both hands or the sight of both eyes,
shall be entitled to a pension of twenty-five dollars per
month; and for the period commencing March third, eight-
een hundred and sixty-five, and ending June third, eighteen
hundred and seventy-two, those persons who under like cir-
cumstances shall have lost one hand and one foot shall be
entitled to a pension of twenty dollars per month; and for
the period commencing June sixth, eighteen hundred and
sixty-six, and ending June third, eighteen hundred and sev-
enty-two, those persons who under like circumstances shall
have lost one hand or one foot shall be entitled to a pension
of fifteen dollars per month; and for the period commenc-
ing June sixth, eighteen hundred and sixty-six, and ending
June third, eighteen hundred and seventy-two, those persons
entitled to a less pension than hereinafter mentioned, who
by reason of injury received or disease contracted in the
military or naval service of the United States and in the
line of duty shall have been permanently and totally disabled
in both hands, [or who shall have lost the sight of one eye,
the other having been previously lost,] or who shall have been
otherwise so totally and permanently disabled as to render
them utterly helpless, or so nearly so as to require regular
personal aid and attendance of another person, shall be en-
titled to a pension of twenty-five dollars per month; and for
the same period those who under like circumstances shall
have been totally and permanently disabled in both feet
or in one hand and one foot, or otherwise so disabled as to
be incapacitated for the performance of any manual labor,
but not so much as to require regular personal aid and
attention, shall be entitled to a pension of twenty dollars
per month; and for the same period all persons who under
like circumstances shall have been totally and permanently
disabled in one hand or one foot, or otherwise so disabled
as to render their inability to perform manual labor equiva-
lent to the loss of a hand or foot, shall be entitled to a pen-
sion of fifteen dollars per month.

SEC. 4698. From and after June fourth, eighteen hundred
and seventy-two, all persons entitled by law to a less pen-
sion than hereinafter specified, who while in the military or
naval service of the United States, and in line of duty, shall
have lost the sight of both eyes, or shall have lost the sight
of one eye, the sight of the other having been previously
lost, or shall have lost both hands, or shall have lost both
feet, or been permanently and totally disabled in the same,

or otherwise so permanently and totally disabled as to render them utterly helpless, or so nearly so as to require the regular personal aid and attendance of another person, shall be entitled to a pension of thirty-one dollars and twenty-five cents per month; and all persons who, under like circumstances, shall have lost one hand and one foot, or been totally and permanently disabled in the same, or otherwise so disabled as to be incapacitated for performing any manual labor, but not so much as to require regular personal aid and attendance, shall be entitled to a pension of twenty-four dollars per month; and all persons who under like circumstances, shall have lost one hand, or one foot, or been totally and permanently disabled in the same, or otherwise so disabled as to render their incapacity to perform manual labor equivalent to the loss of a hand or foot, shall be entitled to a pension of eighteen dollars per month: *Provided*, That all persons who, under like circumstances, have lost a leg above the knee, and in consequence thereof are so disabled that they cannot use artificial limbs, shall be rated in the second class and receive twenty-four dollars per month from and after June fourth, eighteen hundred and seventy-two; and all persons who, under like circumstances, shall have lost the hearing of both ears shall be entitled to a pension of thirteen dollars per month from the same date: *Provided*, That the pension for a disability not permanent, equivalent in degree to any provided for in this section, shall, during the continuance of the disability in such degree, be at the same rate as that herein provided for a permanent disability of like degree.*

As to total and permanent helplessness, see act 18 June, 1874, and act 16 June, 1880.

For loss of hand and foot, see act 28 Feb., 1877.

For loss of both eyes, both hands, or both feet, see act 17 June, 1878, and 3 Mar., 1879.

For leg amputated at hip-joint, see act 3 Mar., 1879.

Sec. 4, 3 Mar., 1873.

Sec. 4, 3 Mar., 1873.

SEC. [4698 $\frac{1}{2}$.] Except in cases of permanent specific disabilities, no increase of pension shall be allowed to commence prior to the date of the examining surgeon's certificate establishing the same, made under the pending claim for increase, and in this, as well as all other cases, the certificate of an examining surgeon, or of a board of examining surgeons, shall be subject to the approval of the Commissioner of Pensions.

Commencement of increase for disabilities not permanent and specific.

Sec. 4, 3 Mar., 1873.

See sec. 4, 10 Apr., 1806.

SEC. 4699. The rate of eighteen dollars per month may be proportionately divided for any degree of disability established for which section forty-six hundred and ninety-five makes no provision.

Division of rate of \$18 per month.

Sec. 5, 3 Mar., 1873.

* Section 4698, amended by acts of June 18, 1874, February 28, 1877, June 17, 1878, March 3, 1879, June 16, 1880, March 3, 1883, and March 3, 1885.

Sick-leave,
sick-furlough,
veteran fur-
lough, line of
duty.

Sec. 6, 3 Mar.,
1873.

Sec. 8, 6 June,
1866.

(On veteran-furlough with the organization
to which they belonged. Sec. 6, 3 Mar., 1873.)

SEC. 4700. Officers absent on sick-leave, and enlisted men absent on sick-furlough, or on veteran-furlough with the organization to which they belong, shall be regarded in the administration of the pension laws in the same manner as if they were in the field or hospital.

Date when
service termi-
nates.

Sec. 7, 3 Mar.,
1873.

Sec. 9, 6 June,
1866.

SEC. 4701. The period of service of all persons entitled to the benefits of the pension-laws, or on account of whose death any person may become entitled to a pension, shall be construed to extend to the time of disbanding the organization to which such persons belonged, or until their actual discharge for other cause than the expiration of the service of such organization.

Widows and
minors; when-
entitled.

Sec. 8, 3 Mar.,
1873.

Sec. 2, 14 July,
1862.

Sec. 11, 14 July,
1862.

Sec. 4, 3 Mar.,
1866.

SEC. 4702. If any person embraced within the provisions of sections forty-six hundred and ninety-two and forty six hundred and ninety-three has died since the fourth day of March, eighteen hundred and sixty-one, or hereafter dies by reason of any wound, injury, or disease, which, under the conditions and limitations of such sections, would have entitled him to an invalid pension had he been disabled, his widow, or if there be no widow, or in case of her death, without payment to her of any part of the pension herein-after mentioned, his child or children, under sixteen years of age, shall be entitled to receive the same pension as the husband or father would have been entitled to had he been totally disabled, to commence from the death of the husband or father, to continue to the widow during her widowhood, and to his child or children until they severally attain the age of sixteen years, and no longer; and, if the widow re-marry, the child or children shall be entitled from the date of remarriage.*

Increased pen-
sions to widows,
&c.

Sec. 9, 3 Mar.,
1873.

Sec. 2, 25 July,
1866.

Sec. 4, 27 July,
1866.

SEC. 4703. The pensions of widows shall be increased from and after the twenty-fifth day of July, eighteen hundred and sixty-six, at the rate of two dollars per month for each child under the age of sixteen years of the husband on account of whose death the claim has been, or shall be, granted. And in every case in which the deceased husband has left, or shall leave, no widow, or where his widow has died or married again, or where she has been deprived of her pension under the provisions of the pension-law, the pension granted to such child or children shall be increased to the same amount per month that would be allowed under the foregoing provisions to the widow, if living and entitled

* Amended by act approved August 7, 1892.

to a pension: *Provided*, That the additional pension herein granted to the widow on account of the child or children of the husband by a former wife shall be paid to her only for such period of her widowhood as she has been, or shall be, charged with the maintenance of such child or children; for any period during which she has not been, or she shall not be, so charged, it shall be granted and paid to the guardian of such child or children: *Provided, further*, That a widow or guardian to whom increase of pension has been, or shall hereafter be, granted on account of minor children shall not be deprived thereof by reason of their being maintained in whole or in part at the expense of a State or the public in any educational institution, or in any institution organized for the care of soldiers' orphans.

Sec. 5, 27 July, 1868.

SEC. 4704. In the administration of the pension-laws, children born before the marriage of their parents, if acknowledged by the father before or after the marriage, shall be deemed legitimate.

Legitimacy of children.

Sec. 10, 3 Mar., 1873.

SEC. 4705. The widows of colored and Indian soldiers and sailors who have died, or shall hereafter die, by reason of wounds or injuries received, or casualty received, or disease contracted, in the military or naval service of the United States, and in the line of duty, shall be entitled to receive the pension provided by law without other evidence of marriage than satisfactory proof that the parties were joined in marriage by some ceremony deemed by them obligatory, or habitually recognized each other as man and wife, and were so recognized by their neighbors, and lived together as such up to the date of enlistment, when such soldier or sailor died in the service, or, if otherwise, to date of death; and the children born of any marriage so proved shall be deemed and held to be lawful children of such soldier or sailor, but this section shall not be applicable to any claims on account of persons who enlist after the third day of March, one thousand eight hundred and seventy-three.

Widows of colored and Indian soldiers entitled; evidence of marriage; legitimacy of children, &c.

Sec. 11, 3 Mar., 1873.

Sec. 14, 14 July, 1864.

Sec. 14, 6 June, 1866.

Sec. 2, 15 June, 1866.

As to "Indians," sec. 11, 3 Mar., 1873.

Sec. 11, 3 Mar., 1873.

SEC. 4706. If any person has died, or shall hereafter die, leaving a widow entitled to a pension by reason of his death, and a child or children under sixteen years of age by such widow, and it shall be duly certified under seal, by any court having probate jurisdiction, that satisfactory evidence has been produced before such court, upon due notice to the widow, that she has abandoned the care of such child or children, or that she is an unsuitable person, by reason of immoral conduct, to have the custody of the same, on

Abandonment by widow of minor child or children forfeits pension.

Sec. 12, 3 Mar., 1873.

Sec. 11, 6 June, 1866.

Sec. 8, 27 July, 1868.

presentation of satisfactory evidence thereof to the Commissioner of Pensions, no pension shall be allowed to such widow until such child or children shall have attained the age of sixteen years, any provisions of law to the contrary notwithstanding, and the said child or children shall be pensioned in the same manner, and from the same date, as if no widow had survived such person, and such pension shall be paid to the guardian of such child or children; but if in any case payment of pension shall have been made to the widow, the pension to the child or children shall commence from the date to which her pension has been paid.

Pension to minor to commence from the time the widow was paid.

Sec. 12, 3
March, 1873.

Succession of dependent relatives.

Sec. 13, 3
March, 1873.
Secs. 3, 4, 14
July, 1862.
Sec. 12, 6 June, 1866.
Sec. 1, 27 July, 1868.

SEC. 4707. If any person embraced within the provisions of sections forty-six hundred and ninety-two and forty-six hundred and ninety-three has died since the fourth day of March, eighteen hundred and sixty-one, or shall hereafter die, by reason of any wound, injury, casualty, or disease, which, under the conditions and limitation of such sections, would have entitled him to an invalid pension, and has not left or shall not leave a widow or legitimate child, but has left or shall leave other relative or relatives who were dependent upon him for support in whole or in part at the date of his death, such relative or relatives shall be entitled, in the following order of precedence, to receive the same pension as such person would have been entitled to had he been totally disabled, to commence from the death of such person, namely: First, the mother; secondly, the father; thirdly, orphan brothers and sisters under sixteen years of age, who shall be pensioned jointly: *Provided*, That where orphan children of the same parent have different guardians, or a portion of them only are under guardianship, the share of the joint pension to which each ward shall be entitled shall be paid to the guardian of such ward: *Provided*, That if in any case said person shall have left father and mother who are dependent upon him, then, on the death of the mother, the father shall become entitled to the pension, commencing from and after the death of the mother; and upon the death of the mother and father, or upon the death of the father and the remarriage of the mother, the dependent brothers and sisters under sixteen years of age shall jointly become entitled to such pension until they attain the age of sixteen years, respectively, commencing from the death or remarriage of the party who had the prior right to the pension: *Provided*, That a mother shall be assumed to have been dependent upon her son within the meaning of this section if, at the date of his death, she had no other

adequate means of support than the ordinary proceeds of her own manual labor and the contributions of said son or of any other persons not legally bound to aid in her support; and if, by actual contributions, or in any other way, the son had recognized his obligations to aid in support of his mother, or was by law bound to such support, and that a father or a minor brother or sister shall, in like manner and under like conditions, be assumed to have been dependent, except that the income which was derived or derivable from his actual or possible manual labor shall be taken into account in estimating a father's means of independent support: *Provided, further*, That the pension allowed to any person on account of his or her dependence, as hereinbefore provided, shall not be paid for any period during which it shall not be necessary as a means of adequate subsistence.

SEC. 4708. The remarriage of any widow, dependent mother, or dependent sister, entitled to pension, shall not bar her right to such pension to the date of her remarriage, whether an application therefor was filed before or after such marriage; but on the remarriage of any widow, dependent mother, or dependent sister, having a pension, such pension shall cease.

Remarriage.

Sec. 14, 3 Mar., 1873.
Secs. 2, 3, 14 July, 1862.
Sec. 7, 4 July, 1864.
Sec. 6, 25 July, 1866.
Sec. 10, 27 July, 1868.

SEC. 4709. *Repealed by acts of January 25 and March 3, 1879.* For repealed section, see Addenda.

SEC. 4710. *Repealed by acts of January 25 and March 3, 1879.* For repealed section, see Addenda.

SEC. 4711. It shall be the duty of the Commissioner of Pensions, upon any application by letter or otherwise by or on behalf of any pensioner entitled to arrears of pension under section forty-seven hundred and nine, or if any such pensioner has died, upon a similar application by or on behalf of any person entitled to receive the accrued pension due such pensioner at his death, to pay or cause to be paid to such pensioner, or other person, all such arrears of pension as the pensioner may be entitled to, or, if dead, would have been entitled to under the provisions of that section had he survived; and no claim-agent or other person shall be entitled to receive any compensation for services in making application for arrears of pension.

Arrears of pensions.

Sec. 17, 3 Mar., 1873.

No fee due attorney for making application for arrears.

SEC. 4712. The provisions of this Title in respect to the rates of pension to persons whose right accrued since the fourth day of March, eighteen hundred and sixty-one, are extended to pensioners whose right to pension accrued

Provisions of former acts extended.

Sec. 18, 3 Mar., 1873.
Sec. 3, 25 July, 1866.

Sec. 12, 27 July, 1866. under general acts passed since the war of the Revolution and prior to the fourth day of March, eighteen hundred and sixty-one, to take effect from and after the twenty-fifth day of July, eighteen hundred and sixty-six; and the widows of revolutionary soldiers and sailors receiving a less sum shall be paid at the rate of eight dollars per month from and after the twenty-seventh day of July, eighteen hundred and sixty-eight.*

**Commencement
of ante-rebellion
pensions.**

Sec. 10, 3 Mar., 1873.
Sec. 12, 6 June, 1866.
Sec. 2, 25 July, 1866.
Sec. sec. 1, 21 Feb., 1795.
Sec. sec. 2, 20 May, 1820.
Sec. sec. 2, 4 Feb., 1822.
Sec. sec. 2, 24 May, 1828.

SEC. 4713. In all cases in which the cause of disability or death originated in the service prior to the fourth day of March, eighteen hundred and sixty-one, and an application for pension shall not have been filed within three years from the discharge or death of the person on whose account the claim is made, or within three years of the termination of a pension previously granted on account of the service and death of the same person, the pension shall commence from the date of filing by the party prosecuting the claim the last paper requisite to establish the same. But no claim allowed prior to the sixth day of June, eighteen hundred and sixty-six, shall be affected by anything herein contained.

**Declarations
must be executed
before a court of
record, &c.**

Sec. 21, 3 Mar., 1873.
Sec. 3, 4 July, 1864.

SEC. 4714. Declarations of pension claimants shall be made before a court of record, or before some officer thereof having custody of its seal, said officer hereby being fully authorized and empowered to administer and certify any oath or affirmation relating to any pension or application therefor: *Provided*, That the Commissioner of Pensions may designate, in localities more than twenty-five miles distant from any place at which such court is holden, persons duly qualified to administer oaths, before whom declarations may be made and testimony taken, and may accept declarations of claimants residing in foreign countries made before a United States minister or consul, or before some officer of the country duly authorized to administer oaths for general purposes, and whose official character and signature shall be duly authenticated by the certificate of a United States minister or consul; declarations in claims of Indians made before a United States agent; and declarations in claims under the provisions of this Title relating to pensions for services in the war of eighteen hundred and twelve, made before an officer duly authorized to administer oaths for general purposes, when the applicants, by reason of infirmity of age, are unable to travel: *Provided*, That any declaration made before an officer duly authorized to administer

Sec. 21, 3 Mar., 1873.

* Amended by act of June 9, 1880.

oaths for general purposes shall be accepted to exempt a claim from the limitation as to date of filing prescribed in section forty-seven hundred and nine.

SEC. 4715. Nothing in this Title shall be so construed as to allow more than one pension at the same time to the same person or to persons entitled jointly; but any pensioner who shall so elect may surrender his certificate, and receive, in lieu thereof, a certificate for any other pension to which he would have been entitled had not the surrendered certificate been issued. But all payments previously made for any period covered by the new certificate shall be deducted from the amount allowed by such certificate.

Two pensions not allowable.

Sec. 2, 3 Mar., 1873.

Secs. 3, 4, 10, 14 July, 1862.

Sec. 13, 6 June, 1866.

Sec. 2, 25 July, 1866.

SEC. 4716. No money on account of pension shall be paid to any person, or to the widow, children, or heirs of any deceased person, who in any manner voluntarily engaged in, or aided or abetted, the late rebellion against the authority of the United States.*

Loyalty requisite.

Sec. 23, 3 Mar., 1873.

Sec. 4, 14 July, 1862.

See act 4 Feb., 1862, and joint resolution 2 Mar., 1867. See

sec. 5, act 9, Mar., 1878.

SEC. 4717. *Repealed by section 3, act of January 25, 1879,* For repealed section, see Addenda.

SEC. 4718. If any pensioner has died or shall hereafter die, or if any person entitled to a pension, having an application therefor pending, has died or shall hereafter die, his widow, or if there is no widow, the child or children of such person under the age of sixteen years shall be entitled to receive the accrued pension to the date of the death of such person. Such accrued pension shall not be considered as a part of the assets of the estate of deceased, nor liable to be applied to the payment of the debts of said estate in any case whatever, but shall inure to the sole and exclusive benefit of the widow or children; and if no widow or child survive, no payment whatsoever of the accrued pension shall be made or allowed, except so much as may be necessary to reimburse the person who bore the expenses of the last sickness and burial of the decedent, in cases where he did not leave sufficient assets to meet such expenses.

Accrued pension; title to vested first in widow, second in minor child or children.

Sec. 25, 8 Mar., 1873.

See sec. 10, 4 July, 1864.

See sec. 6, 6 June, 1866.

See sec. 4, 25 July, 1866.

See sec. 9, 27 July, 1868.

See sec. 2, 2 Mar., 1879.

See secs. 1, 2, 3, 19 June, 1840.

Also, see note to each of the last two named acts in Mayo and Moulton.

Reimbursement.

SEC. 4719. The failure of any pensioner to claim his pension for three years after the same shall have become due shall be deemed presumptive evidence that such pension has legally terminated by reason of the pensioner's death, remarriage, recovery from the disability, or otherwise, and

Unclaimed pensions; disposition of.

Sec. 26, 3 Mar., 1873.

Sec. 3, 27 July, 1868.

See Sec. 1, 6 Apr. 1838.

See sec. 3, 23 Aug., 1842.

* Amended by act of March 3, 1877.

the pensioner's name shall be stricken from the list of pensioners, subject to the right of restoration to the same on a new application by the pensioner, or, if the pensioner is dead, by the widow or minor children entitled to receive the accrued pension, accompanied by evidence satisfactorily accounting for the failure to claim such pension, and by medical evidence in cases of invalids who were not exempt from biennial examinations as to the continuance of the disability.

**Pensions under
special acts.**

Sec. 27, 3 Mar.,
1873.
Sec. 15, 27 July,
1883.
Sec. 1, 7 July,
1870.

SEC. 4720. When the rate, commencement, and duration of a pension allowed by special act are fixed by such act, they shall not be subject to be varied by the provisions and limitations of the general pension laws, but when not thus fixed, the rate and continuance of the pension shall be subject to variation in accordance with the general laws, and its commencement shall date from the passage of the special act, and the Commissioner of Pensions shall, upon satisfactory evidence that fraud was perpetrated in obtaining such special act, suspend payment thereupon until the propriety of repealing the same can be considered by Congress.*.

Indians' claims.

Sec. 23, 3 Mar.,
1873.

SEC. 4721. The term of limitation prescribed by sections forty-seven hundred and nine and forty-seven hundred and seventeen shall, in pending claims of Indians, be extended to two years from and after the third day of March, eighteen hundred and seventy-three; all proof which has heretofore been taken before an Indian agent, or before an officer of any tribe, competent according to the rules of said tribe to administer oaths, shall be held and regarded by the Pension Office, in the examining and determining of claims of Indians now on file, as of the same validity as if taken before an officer recognized by the law at the time as competent to administer oaths; all proof wanting in said claims hereafter, as well as in those filed after the third day of March, eighteen hundred and seventy three, shall be taken before the agent of the tribe to which the claimants respectively belong; in regard to dates, all applications of Indians now on file shall be treated as though they were made before a competent officer at their respective dates, and if found to be in all other respects conclusive, they shall be allowed; and Indians shall be exempted from the obligation to take the oath to support the Constitution of the United States.

*Amended by act of July 6, 1874.

SEC. 4722. The provisions of this Title are extended to the officers and privates of the Missouri State militia, and the provisional Missouri militia, disabled by reason of injury received or disease contracted in the line of duty while such militia was co-operating with United States forces, and the widow or children of any such person, dying of injury received or disease contracted under the circumstances herein set forth, shall be entitled to the benefits of this Title. But the pensions on account of such militia shall not commence prior to the third day of March, one thousand eight hundred and seventy-three.

Missouri militia.

Sec. 8, 3 Mar., 1873.

See sec. 9, 4 July, 1864.

See secs. 1, 2, 25 Mar., 1862.

SEC. 4723. All colored persons who enlisted in the Army during the war of the rebellion, and who are now prohibited from receiving bounty and pension on account of being borne on the rolls of their regiments as "slaves," shall be placed on the same footing, as to bounty and pension, as though they had not been slaves at the date of their enlistment.

Colored soldiers; "slaves."

Sec. 1, 3 Mar., 1873.

An independent act. See page 601, vol. 17, Statutes at Large.

SEC. 4724. No person in the Army, Navy, or Marine Corps shall draw both a pension as an invalid and the pay of his rank or station in the service, unless the disability for which the pension was granted be such as to occasion his employment in a lower grade, or in the civil branch of the service.*

General service.

Act 30 Apr., 1844.

As to persons in the civil service of the United States see sec. 1, 3 Mar., 1865, and secs. 5, 6 June 1, 1866.

SEC. 4725. All those surviving widows and minor children who have been allowed five years' half-pay, under the provisions of any general laws passed prior to the third day of June, eighteen hundred and fifty-eight, are granted a continuance of such half-pay, to commence from the date of the last payment under the respective acts of Congress, granting the same, and the terms and limitations provided in the following section.

Half pay to widows and children.

Sec. 1, 3 June, 1858.

SEC. 4726. Such half-pay is granted to such widows during life, and, where there is no widow, to the children, while under the age of sixteen years; but in case of the remarriage or death of any such widow, the half pay shall go to the children of the decedent on account of whose services it is claimed, while such children are under sixteen years of age, and no longer.

Half pay to widows and children.

Sec. 1, 3 June, 1858.

SEC. 4727. The half-pay of such widows and children shall be half the monthly pay of the officers, non commissioned officers, musicians, and privates of the infantry of the Regular Army, and no more, and no greater sum shall be allowed

Half pay to widows and children.

Sec. 1, 3 June, 1858.

* Amended by act of March 1, 1879.

to any such widow or minor children than the half-pay of a lieutenant-colonel. But the two preceding sections shall not be construed to apply to or embrace the case of any person receiving a pension for life on the third day of June, eighteen hundred and fifty-eight; and, wherever half-pay has been granted by any special act of Congress, and renewed or continued under the provisions of those sections, the same shall continue from the date above named: *Provided*, That pensions under this and the two preceding sections shall be varied in accordance with the provisions of section four thousand seven hundred and twelve of this Title.

Pension to officers and seamen of the Navy disabled prior to Mar. 4, 1861.

Secs. 2, 3, 11
Aug., 1848.

Sec. 11, 1 July,
1791.

Sec. 8, 23 Apr.,
1800.

SEC. 4728. If any officer, warrant or petty officer, seaman, engineer, first, second, or third assistant engineer, fireman, or coal-heaver of the Navy or any marine has been disabled prior to the fourth day of March, eighteen hundred and sixty-one, by reason of any injury received or disease contracted in the service and line of duty, he shall be entitled to receive during the continuance of his disability a pension proportionate to the degree of his disability, not exceeding half the monthly pay of his rank as it existed in January, eighteen hundred and thirty-five. But the pension of a chief engineer shall be the same as that of a lieutenant of the Navy; the pension of a first assistant engineer the same as that of a lieutenant of marines; the pension of a second or third assistant engineer the same as that of a forward officer; the pension of a fireman or coal-heaver the same as that of a seaman; but an engineer, fireman, or coal-heaver shall not be entitled to any pension by reason of a disability incurred prior to the thirty-first day of August, eighteen hundred and forty-two.

Pension to widows and minors of some officers and seamen of the Navy disabled prior to Mar. 4, 1861.

Secs. 1, 2, 3, 11
Aug., 1848.

See sec. 4712.

SEC. 4729. If any person referred to in the preceding section has died in the service, of injury received or disease contracted under the conditions therein stated, his widow shall be entitled to receive half the monthly pay to which the deceased was entitled at the date of his death; and in case of her death or marriage, the child or children under sixteen years of age shall be entitled to the pension. But the rate of pension herein allowed shall be governed by the pay of the Navy as it existed in January, eighteen hundred and thirty-five; and the pension of the widow of a chief engineer shall be the same as that of a widow of a lieutenant in the Navy; the pension of the widow of a first assistant engineer shall be the same as that of the widow of a lieutenant.

ant of marines; the pension of the widow of a second or third assistant engineer the same as that of the widow of a forward officer; the pension of the widow of a fireman or coal-heaver shall be the same as that of the widow of a seaman. But the rate of pension prescribed by this and the preceding section shall be varied from and after the twenty-fifth day of July, eighteen hundred and sixty-six, in accordance with the provisions of section four thousand seven hundred and twelve of this Title; and the widow of an engineer, fireman, or coal-heaver shall not be entitled to any pension by reason of the death of her husband, if his death was prior to the thirty-first day of August, eighteen hundred and forty-two.

SEC. 4730. Any officer, non-commissioned officer, musician or private, whether of the Regular Army or volunteer, disabled by reason of injury received or disease contracted while in the line of duty in actual service in the war with Mexico, or in going to or returning from the same, who received an honorable discharge, shall be entitled to a pension proportionate to his disability, not exceeding for total disability half the pay of his rank at the date at which he received the wound or contracted the disease which resulted in such disability. But no pension shall exceed half the pay of a lieutenant-colonel.

Mexican war, regulars or volunteers disabled in.

Sec. 7, 13 May, 1846.
Sec. 2, 21 July, 1848.
See sec. 4712.

SEC. 4731. If any officer or other person referred to in the preceding section has died, or shall hereafter die, by reason of any injury received or disease contracted under the circumstances therein set forth, his widow shall be entitled to receive the same pension as the husband would have been entitled to had he been totally disabled; and in case of her death or remarriage, the child or children of such officer or other person referred to in the preceding section, while under the age of sixteen years, shall be entitled to receive the pension. But the rate of pension prescribed by this and the preceding section shall be varied after the twenty-fifth day of July, eighteen hundred and sixty-six, in accordance with the provisions of section four thousand seven hundred and twelve of this Title.

Widows and children of regulars or volunteers in the Mexican war.

Secs. 1, 2, 21 July, 1848.
Sec. 1, 22 Feb., 1849.
Act 28 Sept., 1850.
See sec. 4712.

SEC. 4732. The widows, and children under sixteen years of age, of the officers, non-commissioned officers, musicians, and privates of the regulars, militia, and volunteers of the war of one thousand eight hundred and twelve, and the various Indian wars since one thousand seven hundred and ninety, who remained at the date of their death in the mili-

Widows and minor children of persons engaged in the war with Mexico and in the various Indian wars.

Sec. 1, 4, July, 1836.
Secs. 1, 2, 3, 21 July, 1848.

Sec. 1, 22 Feb., 1849. tary service of the United States, or who received an honorable discharge and have died or shall hereafter die of injury received or disease contracted in the service and in the line of duty, shall be entitled to receive half the monthly pay to which the deceased was entitled at the time he received the injury or contracted the disease which resulted in his death. But no half-pay pension shall exceed the half-pay of a lieutenant-colonel, and such half-pay pension shall be varied after the twenty-fifth day of July, one thousand eight hundred and sixty-six, in accordance with the provisions of section four thousand seven hundred and twelve of this Title.

Proviso 3, sec. 1, 3 Feb., 1853.
Sec. 1, 3 June, 1858.

Sec. 4712, as to rate.

New; continuance of pensions.

SEC. 4733. All pensioners whose names are now on the pension-roll, or who are entitled to restoration to the roll under any act of Congress, shall be entitled to the continuance of such pensions under the provisions and limitations of this Title, and to such further increase of pension as is herein provided.

Pensions are not to be withheld.

Act 20 May, 1836.

SEC. 4734. The provisions of law which allow the withholding of the compensation of any person who is in arrears shall not be construed to authorize the pension of any pensioner of the United States to be withheld.

Time for which a widow shall not receive a pension.

Act 30 April, 1844. See resolution 23 Jan., 1845.

Pensions to certain soldiers and sailors of the war of 1812.

Sec. 1, 14 Feb., 1871.
See act 9 Mar., 1878.

SEC. 4735. No pension shall be granted to a widow for the same time that her husband received one.

SEC. 4736. The Secretary of the Interior is directed to place on the pension-roll the names of the surviving officers and enlisted and drafted men, including militia and volunteers, of the military and naval service of the United States, who served sixty days in the war with Great Britain, of eighteen hundred and twelve, and were honorably discharged, and such other officers and soldiers as may have been personally named in any resolution of Congress for any specific service in that war, although their term of service may have been less than sixty days, subject, however, to the provisions of section forty-seven hundred and sixteen.

Pensions under preceding section; rate of.

Sec. 2, 14 Feb., 1871.
See act 9 Mar., 1878.

SEC. 4737. Pensions, under the preceding section, shall be at the rate of eight dollars per month, and shall be paid to the persons entitled thereto for the term of their lives from and after the fourteenth day of February, eighteen hundred and seventy-one. But that section shall not apply to any person who is receiving a pension at the rate of eight dollars or more per month; nor to any person who is receiv-

ing a pension less than eight dollars per month, except for the difference between the pension now received and eight dollars per month.

SEC. 4738. The surviving widows of such persons as are embraced within the provisions of the two preceding sections shall be allowed, on the conditions and limitations therein expressed, the same pension that such persons themselves would have been entitled to receive thereunder if living on the fourteenth day of February, eighteen hundred and seventy-one: *Provided, however,* Such widows were married to the husbands, on account of whose services the pension is claimed, prior to the treaty of peace which terminated the war of eighteen hundred and twelve, and have not remarried.

Pensions to surviving widows of officers, &c., of the war of 1812.

Sec. 1, 14 Feb., 1871.

See act 9 Mar., 1878.

SEC. 4739. Before the name of any person is placed upon the pension-roll under the three preceding sections, proof shall be made, under such regulations as the Secretary of the Interior may prescribe, that the applicant is entitled to a pension under the provisions of the sections herein cited; and the Secretary of the Interior shall cause to be stricken from the pension-roll the name of any person whenever it appears, by proof satisfactory, that such name was put upon such roll through false or fraudulent representations.

Proof required; names may be stricken from pension-rolls.

Sec. 3, 14 Feb., 1871.

See act 9 Mar., 1878.

SEC. 4740. The loss of a certificate of discharge shall not deprive an applicant of the benefits of sections forty-seven hundred and thirty-six, forty-seven hundred and thirty-seven, and forty-seven hundred and thirty-eight, but other proof of services performed and of an honorable discharge, if deemed satisfactory, shall be sufficient.

Loss of discharge certificate.

Sec. 3, 14 Feb., 1871.

See act 9 Mar., 1878.

SEC. 4741. The officers and seamen of the revenue-cutters of the United States, who have been or may be wounded or disabled in the discharge of their duty while co-operating with the Navy by order of the President, shall be entitled to be placed on the Navy pension-list, at the same rate of pension and under the same regulations and restrictions as are provided by law for the officers and seamen of the Navy.

Pension to officers and seamen of revenue-cutters.

Act 18 Apr., 1814.

SEC. 4742. From and after the second day of April, eighteen hundred and sixty-two, no claim for a pension, or for an increase of pension, shall be allowed in favor of the children or other descendants of any person who served in the war of the Revolution, or of the widow of such person, when

Certain claims for revolutionary pensions prohibited.

Act 2 April, 1862.

such person or his widow died without having established a claim to a pension.

Evidence necessary to enable widows of revolutionary soldiers to obtain pensions.

Resolution 1
July, 1848.

SEC. 4743. In all cases where a pension has been granted to any officer or soldier of the Revolution in his life-time, the evidence upon which such pension was granted shall be conclusive of the service of such officer or soldier in the application of any widow, or woman who may have been the widow, of such officer or soldier, for a pension; and upon proof by her that she was married to any such officer or soldier and that she is a widow, she shall thereupon be placed upon the pension-rolls at the same rate that such officer or soldier received during his life-time.

Special service in investigating suspected attempts at fraud.

Sec. 30, 3 Mar.,
1873.
Sec. 12, 14 July,
1862.
Sec. 4, 4 July,
1864.

SEC. 4744. The Commissioner of Pensions is authorized to detail, from time to time, clerks in his office to investigate suspected attempts at fraud on the government, through and by virtue of the provisions of the pension law, and to aid in prosecuting any person so offending, with such additional compensation as is customary in cases of special service; any person so detailed shall have the power to administer oaths and take affidavits in the course of any such investigation.*

Any pledge, mortgage, sale, assignment, or transfer of pension void.

Sec. 32, 3 Mar.,
1873.
Sec. 8, 10 Apr.,
1866.
Sec. 4, 18 Mar.,
1818.
Sec. 2, 7 July,
1838.
Sec. 2, 6 June,
1866.

SEC. 4745. Any pledge, mortgage, sale, assignment, or transfer of any right, claim, or interest in any pension which has been, or may hereafter be, granted, shall be void and of no effect; and any person acting as attorney to receive and receipt for money for and in behalf of any person entitled to a pension shall, before receiving such money, take and subscribe an oath, to be filed with the pension agent, and by him to be transmitted, with the vouchers now required by law, to the proper accounting officer of the Treasury, that he has no interest in such money by any pledge, mortgage, sale, assignment, or transfer, and that he does not know or believe that the same has been so disposed of to any person.†

Penalty for false affidavit or post-dating vouchers.

Sec. 33, 3 Mar.,
1873.
Secs. 1, 3, 2
Mar., 1863.
Sec. 3, 6 June,
1866.
Sec. 6, 8 July,
1870.
Sec. sec. 1, 5
Feb., 1859.

SEC. 4746. Every person who knowingly or willfully in any wise procures the making or presentation of any false or fraudulent affidavit concerning any claim for pension, or payment thereof, or pertaining to any other matter within the jurisdiction of the Commissioner of Pensions, or who knowingly or willfully presents or causes to be presented at any pension-agency any power of attorney or other paper

* Amended by act of July 25, 1862.

† Amended by section 2, act of February 28, 1883.

required as a voucher in drawing a pension, which paper bears a date subsequent to that on which it was actually signed or executed, shall be punished by a fine not exceeding five hundred dollars, or by imprisonment for a term not exceeding three years, or by both.

SEC. 4747. No sum of money due, or to become due, to any pensioner shall be liable to attachment, levy, or seizure by or under any legal or equitable process whatever, whether the same remains with the Pension Office, or any officer or agent thereof, or is in course of transmission to the pensioner entitled thereto, but shall inure wholly to the benefit of such pensioner.

Pension not liable to attachment.

Sec. 25, 3 Mar., 1874.
Sec. 3, 6 June, 1866.
Sec. 2, 7 July, 1868.

SEC. 4748. That the Commissioner of Pensions, on application being made to him in person, or by letter, by any claimant or applicant for pension, bounty-land, or other allowance required by law to be adjusted or paid by the Pension-Office, shall furnish such person, free of all expense, all such printed instructions and forms as may be necessary in establishing and obtaining said claim; and on the issuing of a certificate of pension or of a bounty-land warrant, he shall forthwith notify the claimant or applicant, and also the agent or attorney in the case, if there be one, that such certificate has been issued, or allowance made, and the date and amount thereof.

Commissioner of Pensions shall furnish printed instructions free of charge.

Sec. 32, 3 Mar., 1878.
Sec. 9, 14 July, 1862.

SEC. 4749. No soldier or sailor shall be taken or held to be a deserter from the Army or Navy who faithfully served according to his enlistment until the nineteenth day of April, eighteen hundred and sixty-five, and who, without proper authority or leave first obtained, quit his command or refused to serve after that date; but nothing herein contained shall operate as a remission of any forfeiture incurred by any such soldier or sailor of his pension; but this section shall be construed solely as a removal of any disability such soldier or sailor may have incurred by the loss of his citizenship in consequence of his desertion.*

Certain soldiers and sailors not to be deemed deserters.

Act 19 July, 1867.

SEC. 4750. The Secretary of the Navy shall be trustee of the Navy pension-fund.

Secretary of the Navy shall be trustee of Navy pension-fund.

SEC. 4751. All penalties and forfeitures incurred under the provisions of sections twenty-four hundred and sixty-one, twenty-four hundred and sixty-two, twenty-four hundred and sixty-three, Title "THE PUBLIC LANDS," shall be sued for, recovered, distributed, and accounted for under the

Sec. 1, 10 July, 1832.

Penalties; how to be sued for, &c.

Sec. 3, 2 Mar., 1861.

* See acts of August 7, 1862, and July 5, 1864.

directions of the Secretary of the Navy, and shall be paid over, one-half to the informers, if any, or captors, where seized, and the other half to the Secretary of the Navy for the use of the Navy pension-fund; and the Secretary is authorized to mitigate, in whole or in part, on such terms and conditions as he deems proper, by an order in writing, any fine, penalty, or forfeiture so incurred.

Prize-money
accruing to the
United States to
remain a fund for
pensions.

Sec. 1, 17 July,
1862.

SEC. 4752. All money accruing or which has already accrued to the United States from sale of prizes shall be and remain forever a fund for the payment of pensions to the officers, seamen, and marines who may be entitled to receive the same; if such fund be insufficient for the purpose, the public faith is pledged to make up the deficiency; but if it should be more than sufficient, the surplus shall be applied to the making of further provision for the comfort of the disabled officers, seamen, and marines.

Navy pension-
fund; how to be
invested.

Resolution 1
July, 1864.

SEC. 4753. The Secretary of the Navy, as trustee of the naval pension-fund, is directed to cause to be invested in the registered securities of the United States, on the first day of January and the first day of July of each year, so much of said fund then in the Treasury of the United States as may not be required for the payment of naval pensions for the then current fiscal year; and, upon the requisition of the Secretary, so much of the fund as may not be required for such payment of pensions accruing during the current fiscal year shall be held in the Treasury on the days above named in each year, subject to his order, for the purpose of such immediate investment; and the interest payable in coin upon the securities in which the fund may be invested shall be so paid, when due, to the order of the Secretary of the Navy, and he is authorized and directed to exchange the amount of such interest, when paid in coin, for so much of the legal currency of the United States as may be obtained therefor at the current rates of premium on gold, and to deposit the interest so converted in the Treasury to the credit of the naval pension-fund; but nothing herein contained shall be construed to interfere with the payment of naval pensions under the supervision of the Secretary of the Interior as regulated by law.

Rate of interest
on naval pension-
fund.

Sec. 2, 23 July,
1868.

SEC. 4754. The interest on the naval pension-fund shall hereafter be at the rate of three per centum per annum in lawful money.

SEC. 4755. The Navy pensions shall be paid from the Navy pension-fund, but no payments shall be made therefrom except upon appropriations authorized by Congress.

Navy pensions payable from fund.

Act 11 July, 1870.

SEC. 4756. There shall be paid out of the naval pension-fund to every person who, from age or infirmity, is disabled from sea service, but who has served as an enlisted person in the Navy or Marine Corps for the period of twenty years, and not been discharged for misconduct, in lieu of being provided with a home in the Naval Asylum, Philadelphia, if he so elects, a sum equal to one-half the pay of his rating at the time he was discharged, to be paid him quarterly, under the direction of the Commissioner of Pensions; and application for such pension shall be made to the Secretary of the Navy, who, upon being satisfied that the applicant comes within the provisions of this section, shall certify the same to the Commissioner of Pensions, and such certificate shall be his warrant for making payment as herein authorized.

Half-rating to disabled enlisted persons serving twenty years in Navy or Marine Corps.

Act 2 Mar., 1867.

SEC. 4757. Every disabled person who has served in the Navy or Marine Corps as an enlisted man for a period not less than ten years, and not been discharged for misconduct, may apply to the Secretary of the Navy for aid from the surplus income of the naval pension fund; and the Secretary of the Navy is authorized to convene a board of not less than three naval officers, one of whom shall be a surgeon, to examine into the condition of the applicant, and to recommend a suitable amount for his relief, and for a specified time, and upon the approval of such recommendation by the Secretary of the Navy, and a certificate thereof to the Commissioner of Pensions, the amount shall be paid in the same manner as is provided in the preceding section for the payment to persons disabled by long service in the Navy; but no allowance so made shall exceed the rate of a pension for full disability corresponding to the grade of the applicant, nor, if in addition to a pension, exceed one-fourth the rate of such pension.

Serving not less than ten years, may receive what aid.

Proviso. Act 2 Mar., 1867.

SEC. 4758. The Secretary of the Navy shall be trustee of the privateer pension-fund.

Secretary of Navy trustee of privateer pension-fund.

SEC. 4759. Two per centum on the net amount, after deducting all charges and expenditures, of the prize-money arising from captured vessels and cargoes, and on the net amount of the salvage of vessels and cargoes recaptured by the private armed vessels of the United States, shall be

Secs. 3, 5, 10 July, 1832.

Privateer pension-fund; how derived.

Sec. 17, 26 June, 1812.

secured and paid over to the collector or other chief officer of the customs of the port or place in the United States at which such captured or recaptured vessels may arrive; or to the consul or other public agent of the United States residing at the port or place, not within the United States, at which such captured or recaptured vessels may arrive. And the moneys arising therefrom are pledged by the Government of the United States as a fund for the support and maintenance of the widows and orphans of such persons as may be slain, and for the support and maintenance of such persons as may be wounded and disabled on board of the private armed vessels of the United States, in any engagement with the enemy, to be assigned and distributed in such manner as is or may be provided by law.

To be paid into
the Treasury, &c.

Sec. 1, 13 Feb.,
1813.

SEC. 4760. The two per centum reserved in the hands of the collectors and consuls by the preceding section shall be paid to the Treasury, under the like regulations provided for other public money, and shall constitute a fund for the purposes provided for by that section.

Wounded, &c.,
privateersmen to
be placed on pen-
sion-list.

Sec. 2, 13 Feb.,
1813.

Sec. 3, 5 Apr.,
1866.

SEC. 4761. The Secretary of the Interior is required to place on the pension-list, under the like regulations and restrictions as are used in relation to the Navy of the United States, any officer, seaman, or marine who, on board of any private armed vessel bearing a commission of letter of marque, shall have been wounded or otherwise disabled in any engagement with the enemy, or in the line of their duty as officers, seamen, or marines of such private armed vessel; allowing to the captain a sum not exceeding twenty dollars per month; to lieutenants and sailing-master a sum not exceeding twelve dollars each per month; to marine officer, boatswain, gunner, carpenter, master's mate, and prize-masters a sum not exceeding ten dollars each per month; to all other officers a sum not exceeding eight dollars each per month, for the highest rate of disability, and so in proportion; and to a seaman, or acting as a marine, the sum of six dollars per month, for the highest rate of disability, and so in proportion; which several pensions shall be paid from moneys appropriated for the payment of pensions.

Commanding
officers of priva-
teers to enter
names, &c., in a
journal.

Sec. 3, 13 Feb.,
1813.

SEC. 4762. The commanding officer of every vessel having a commission, or letters of marque and reprisal, shall enter in his journal the name and rank of any officer, and the name of any seaman, who, during his cruise, is wounded or disabled, describing the manner and extent, as far as practicable, of such wound or disability.

SEC. 4763. Every collector shall transmit quarterly to the Secretary of the Navy a transcript of such journals as may have been reported to him, so far as it gives a list of the officers and crew, and the description of wounds and disabilities, the better to enable the Secretary to decide on claims for pensions.

Transcript of journals to be transmitted to Secretary of the Navy.

Sec. 4, 13 Feb., 1812.

SEC. 4764. Within fifteen days immediately preceding the fourth day of March, June, September, and December in each year, the several agents for the payment of pensions shall prepare a quarterly voucher for every person whose pension is payable at his agency, and transmit the same by mail, directed to the address of the pensioner named in such voucher, who, on or after the fourth day of March, June, September, and December next succeeding the date of such voucher, may execute and return the same to the agency at which it was prepared, and at which the pension of such person is due and payable.

Pension agents to send quarterly vouchers to each pensioner, &c.

Sec. 1, 8 July, 1870.

SEC. 4765. Upon the receipt of such voucher, properly executed, and the identity of the pensioner being established and proved in the manner prescribed by the Secretary of the Interior, the agent for the payment of pensions shall immediately draw his check on the proper assistant treasurer or designated depository of the United States for the amount due such pensioner, payable to his order, and transmit the same by mail, directed to the address of the pensioner entitled thereto; but any pensioner may be required, if thought proper by the Commissioner of Pensions, to appear personally and receive his pension.

Check to be drawn to order of each pensioner.

Sec. 2, 8 July, 1870.

SEC. 4766. Hereafter no pension shall be paid to any person other than the pensioner entitled thereto, nor otherwise than according to the provisions of this Title, and no warrant, power of attorney, or other paper executed or purporting to be executed by any pensioner to any attorney, claim-agent, broker, or other person shall be recognized by any agent for the payment of pensions, nor shall any pension be paid thereon. But the payment to persons laboring under legal disabilities may be made to the guardians of such persons in the manner herein prescribed; and pensions payable to persons in foreign countries may be made according to the provisions of existing laws.*

Pensions to be paid only to persons entitled.

Sec. 3, 8 July, 1870.

SEC. 4767. The Secretary of the Interior shall cause suitable blanks for the vouchers mentioned in section forty-

Blanks for vouchers; notice.

Sec. 5, 8 July, 1870.

* Re-enacted and amended by act of August 7, 1882.

seven hundred and sixty-four to be printed and distributed to the agents for the payment of pensions, upon which he shall cause a note to be printed, informing pensioners of the fact that hereafter no pension will be paid, except upon the vouchers issued as herein directed.

Sec. 9, 8 July, 1870. **SEC. 4768.** The Commissioner of Pensions shall forward the certificate of pension, granted in any case, to the agent for paying pensions where such certificate is made payable, and at the same time forward therewith one of the articles

Repealed as to new cases. (Sec act 20 June, 1873.) See sec. 4, 25 Jan., 1879. of agreement filed in the case and approved by the Commissioner, setting forth the fee agreed upon between the claimant and the attorney or agent; and where no agreement is on file, as hereinbefore provided, he shall direct that a fee of ten dollars only be paid the agent or attorney.

Sec. sec. 4, 25 Jan., 1879. **SEC. 4769.** It shall be the duty of the agent paying such pension to deduct from the amount due the pensioner the amount of fees so agreed upon or directed by the Commissioner to be paid where no agreement is filed and approved, and to forward or cause to be forwarded to the agent or attorney of record named in such agreement, or, in case there is no agreement, to the agent prosecuting the case, the amount of the proper fee, deducting therefrom the sum of thirty cents in payment of his services in forwarding the same.

SEC. 4770. Now section 3646 of the Revised Statutes :

Act 27 Feb., 1877. **“SEC. 3646.** Whenever any original check is lost, stolen, or destroyed, disbursing officers and agents of the United States are authorized, after the expiration of six months, and within three years from the date of such check, to issue a duplicate check; and the Treasurer, assistant treasurers, and designated depositaries of the United States are directed to pay such duplicate checks, upon notice and proof of the loss of the original checks, under such regulations in regard to their issue and payment, and upon the execution of such bonds, with sureties, to indemnify the United States, as the Secretary of the Treasury shall prescribe. This section shall not apply to any check exceeding in amount the sum of one thousand dollars.”

SEC. 4771,

SEC. 4772,

SEC. 4773,

} Repealed by section 3, act of June 21, 1879.

For repealed sections see ADDENDA.

SEC. 4774. Superseded by section 4, act of July 25, 1882, which act was subsequently amended by act of March 3, 1885.

For repealed section see ADDENDA.

AN ACT equalizing pensions of certain officers in the Navy.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from Sec. sec. 4685,
R. S. and after the passage of this act, the pension for total disability of passed assistant engineers, assistant engineers, and cadet engineers in the naval service, respectively, shall be the same as the pensions allowed to officers of the line in the naval service with whom they have relative rank; and that all acts or parts of acts inconsistent herewith be, and are hereby, repealed.

Approved, March 3, 1877.

AN ACT amending the pension-law so as to remove the disability of those who, having participated in the rebellion, have, since its termination, enlisted in the Army of the United States, and become disabled.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Sec. sec. 4716,
R. S. law prohibiting the payment of any money on account of pensions to any person, or to the widow, children, or heirs of any deceased person, who, in any manner, engaged in or aided or abetted the late rebellion against the authority of the United States, shall not be construed to apply to such persons as afterward voluntarily enlisted in the Army of the United States, and who, while in such service, incurred disability from a wound or injury received or disease contracted in the line of duty.

Approved, March 3, 1877.

[Not held to apply to Navy cases.]

AN ACT to amend section 4778 of the Revised Statutes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever during a session of the Senate a vacancy shall occur in the office of Pension Agent, by reason of resignation, death, removal or expiration of the term of office, or where any such agent lawfully appointed shall have failed to qualify and assume the duties of such office, the President may when the public exigency requires it, designate any officer of the United States to perform the duties of such office, but such designation shall not be for a longer time than twenty days, and such officer so designated shall give bonds if required by the President for the faithful discharge of the said duties and the Secretary of the Interior

shall allow in the settlement of the accounts of such officer, the necessary expenses incurred by him in the discharge of his duties under this act. The foregoing provisions shall apply to any vacancy now existing

Approved, March 8, 1878.

AN ACT amending the laws granting pensions to the soldiers and sailors of the war of eighteen hundred and twelve, and their widows, and for other purposes.

See sec. 4726 to
4740, inclusive.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the names of the surviving officers and enlisted and drafted men, without regard to color, including militia and volunteers, of the military and naval service of the United States who served for fourteen days in the war with Great Britain of eighteen hundred and twelve, or who were in any engagement and were honorably discharged, and the surviving widows of such officers and enlisted and drafted men.

SEC. 2. That this act shall not apply to any person who is receiving a pension at the rate of eight dollars per month or more, nor to any person receiving a pension of less than eight dollars per month, except for the difference between the pension now received (if less than eight dollars per month) and eight dollars per month. Pensions under this act shall be at the rate of eight dollars per month, except as herein provided, and shall be paid to the persons entitled thereto, from and after the passage of this act, for and during their natural lives: *Provided*, That the pensions to widows provided for in this act shall cease when they shall marry again.

SEC. 3. That before the name of any person shall be placed upon the pension-rolls under this act proof shall be made, under such rules and regulations as the Commissioner of Pensions, with the approval of the Secretary of the Interior, shall prescribe, that the applicant is entitled to a pension under this act; and any person who shall falsely take any oath required to be taken under the provisions of this act shall be guilty of perjury; and the Secretary of the Interior shall cause to be stricken from the rolls the name of any person when it shall appear, by proof satisfactory to him, that such name was put on said rolls by or through false or fraudulent representations, or by mistake as to the right of such person to a pension under this act. The loss

or lack of a certificate of discharge shall not deprive the applicant of the benefit of this act, but other proof of the service performed and of an honorable discharge, if satisfactory, shall be deemed sufficient; and when there is no record evidence of such service and such discharge, the applicant may establish the same by other satisfactory testimony: *Provided*, That when any person has been granted a land-warrant, under any act of Congress, for and on account of service in the said war of eighteen hundred and twelve, such grant shall be *prima-facie* evidence of his service and honorable discharge, so as to entitle him, if living, or his widow if he be dead, to a pension under this act; but such evidence shall not be conclusive, and may be rebutted by evidence that such land-warrant was improperly granted.

SEC. 4. That all applications for pensions of the classes provided for in this act heretofore or which may hereafter be made shall be considered and decided as though made under this act; and all laws now in force in regard to the manner of paying pensions, and in reference to the punishment of frauds, shall be applicable to all claims under the provisions of this act.

SEC. 5. That the Secretary of the Interior be, and he is hereby, authorized and directed to restore to the pension-rolls the names of all persons now surviving heretofore pensioned on account of service in the war of eighteen hundred and twelve against Great Britain or for service in any of the Indian wars, and whose names were stricken from the rolls in pursuance of the act entitled "An act authorizing the Secretary of the Interior to strike from the pension-rolls the names of such persons as have taken up arms against the Government or who have in any manner encouraged the rebels," approved February fourth, eighteen hundred and sixty two; and that the joint resolution entitled "Joint resolution prohibiting payment by any officer of the government to any person not known to have been opposed to the rebellion and in favor of its suppression," approved March second, eighteen hundred and sixty-seven, and section forty-seven hundred and sixteen of the Revised Statutes of the United States, shall not apply to the persons provided for by this act: *Provided*, That no money shall be paid to any one on account of pensions for the time during which his name remained stricken from the rolls.

SEC. 6. That the surviving widow of any pensioner of the war of eighteen hundred and twelve, where the name of said pensioner was stricken from the pension-rolls in pursuance of the act entitled "An act authorizing the Secretary of the

shall be entitled to the benefits of section forty-seven hundred and eighty-eight, and shall receive money-commutation as therein provided.*

Transportation for those to whom artificial limbs are furnished.

Act 28 July, 1866.
Sec. 2, 8 June, 1872.
See sec. 2, 15 Aug., 1878.
See act 27 Feb., 1877.

SEC. 4791. The Secretary of War is authorized and directed to furnish to the persons embraced by the provisions of section forty-seven hundred and eighty-seven transportation to and from their homes and the place where they may be required to go to obtain artificial limbs provided for them under authority of law.†

* * * * *

Agent or attorney for pensions demanding or receiving more than legal fee; penalty for.

Act 3 Mar., 1873.

SEC. 5485.‡ Any agent or attorney, or any other person instrumental in prosecuting any claim for pension or bounty-land, who shall directly or indirectly contract for, demand, or receive or retain any greater compensation for his services or instrumentality in prosecuting a claim for pension or bounty-land than is provided in the Title pertaining to pensions, or who shall wrongfully withhold from a pensioner or claimant the whole or any part of the pension or claim allowed and due such pensioner or claimant, or the land warrant issued to any such claimant, shall be deemed guilty of a high misdemeanor, and, upon conviction thereof shall, for every such offense be fined not exceeding five hundred dollars, or imprisonment at hard labor not exceeding two years, or both, at the discretion of the court.

[See §§ 4785, 4786.]

Persons employed under the Government, in any capacity, cannot act as agents or attorneys, nor can they aid or assist in the prosecution of any claim against the United States.

SEC. 5498. Every officer of the United States, or person holding any place of trust or profit, or discharging any official function under, or in connection with, any executive department of the Government of the United States, or under the Senate or House of Representatives of the United States, who acts as an agent or attorney for prosecuting any claim against the United States, or in any manner, or by any means, otherwise than in discharge of his proper official duties, aids or assists in the prosecution or support of any such claim, or receives any gratuity, or any share of or interest in any claim from any claimant against the United States, with the intent to aid or assist, or in consideration

*Amended by par. 169, act of February 27, 1877.

†Amended by par. 170, act of February 27, 1877.

‡ This section is re-enacted in the bill making appropriations for the fiscal year ending June 30, 1882, as follows: "And the provisions of section fifty-four hundred and eighty-five of the Revised Statutes shall be applicable to any person who shall violate the provisions of an act entitled 'An act relating to claim agents and attorneys in pension cases,' approved June twentieth, eighteen hundred and seventy-eight."

of having aided or assisted, in the prosecution of such claim, shall pay a fine of not more than five thousand dollars or suffer imprisonment not more than one year, or both.

SEC. 190. It shall not be lawful for any person appointed after the first day of June, one thousand eight hundred and seventy-two, as an officer, clerk or employé in any of the Departments, to act as counsel, attorney or agent for prosecuting any claim against the United States which was pending in either of said Departments while he was such officer, clerk or employé, nor in any manner, nor by any means, to aid in the prosecution of any such claim, within two years next after he shall have ceased to be such officer, clerk or employé.

Persons formerly in the Departments not to prosecute claims in them.

Sec. 1, act 1
June, 1872.



PENSION LAWS

ENACTED SINCE MARCH 4, 1873, NOT INCLUDED IN THE

REVISED STATUTES.



AN ACT for the relief of certain pensioners.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all pensioners now on the pension-rolls, or who may hereafter be placed thereon, for amputation of either leg at the hip joint, shall receive a pension at the rate of thirty-seven dollars and fifty cents per month from the date of the approval of this act. See secs. 4697, 4698, R. S.

Approved, March 3, 1879.

AN ACT making appropriations for the legislative, executive, and judicial expenses of the government for the fiscal year ending June thirtieth, eighteen hundred and eighty, and for other purposes.

* * * * *

SEC. 3. That sections forty-seven hundred and seventy-one, forty-seven hundred and seventy-two, and forty-seven hundred and seventy-three of the Revised Statutes of the United States, providing for biennial examinations of pensioners, are hereby repealed: *Provided*, That the Commissioner of Pensions shall have the same power as heretofore to order special examinations, whenever, in his judgment, the same may be necessary, and to increase or reduce the pension according to right and justice; but in no case shall a pension be withdrawn or reduced except upon notice to the pensioner and a hearing upon sworn testimony, except as to the certificate of the examining surgeon. • • • Secs. 4771, 4772, 4773, repealed.

Approved, June 21, 1879.

CHAP. 166.—AN ACT to restore pensions in certain cases.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section three of an act entitled "An act increasing the pensions of widows and orphans, and for other purposes," approved July twenty-fifth, eighteen hundred and sixty-six, and section thirteen of an act entitled "An act relating to pensions," approved July twenty-seventh, eighteen hundred and sixty-eight, and section forty-seven hundred and twelve of the Revised Statutes, shall not operate to reduce the rate of any pension which had actually been allowed to the commissioned, non-commissioned, or petty officers of the Navy or their widows, or minor children, prior to July twenty-fifth, eighteen hundred and sixty-six; and the Secretary of the Interior is hereby directed to restore all such pensions as See sec. 4712.

have already been so reduced to the rate originally granted and allowed, to take effect from the date of such reduction.

Approved, June 9, 1880.

CHAP. 236.—AN ACT to increase the pensions of certain pensioned soldiers and sailors who are utterly helpless from injuries received or disease contracted while in the United States service.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all

See sec. 4007, 1874, act 2 Mar., 1878, act 17 June, 1878, R. S.

soldiers and sailors who are now receiving a pension of fifty dollars per month, under the provisions of an act entitled "An act to increase the pension of soldiers and sailors who have been totally disabled," approved June eighteenth, eighteen hundred and seventy-four, shall receive, in lieu of all pensions now paid them by the Government of the United States, and there shall be paid them in the same manner as pensions are now paid to such persons, the sum of seventy-two dollars per month.

See act 18 June, 1874, act 2 Mar., 1878, act 17 June, 1878.

SEC. 2. All pensioners whose pensions shall be increased by the provisions of this act from fifty dollars per month to seventy-two dollars per month shall be paid the difference between said sums monthly, from June seventeenth, eighteen hundred and seventy-eight, to the time of the taking effect of this act.

Approved, June 16, 1880.

AN ACT making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June thirtieth, eighteen hundred and eighty-two, and for deficiencies and for other purposes.

* * * * *

Regulating payment of pensions to inmates of National Soldiers' Home.

SEC. 2. All pensions payable, or to be paid under this act, to pensioners who are inmates of the National Home for Disabled Volunteer Soldiers, shall be paid to the treasurer or treasurers of said home, upon security given to the satisfaction of the managers, to be disbursed for the benefit of the pensioners without deduction for fines or penalties under regulations to be established by the managers of the Home; said payment to be made by the pension agent upon a certificate of the proper officer of the Home that the pensioner is an inmate thereof and is still living. Any balance of the pension which may remain at the date of the pensioner's discharge shall be paid over to him; and in case of his death at the Home, the same shall be paid to the widow, or children, or in default of either to his legal representatives.

Approved, February 26, 1881.

AN ACT for the relief of citizens of Montana who served with the United States troops in the war with the Nez Perces, and for the relief of the heirs of such as were killed in such service.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That each volunteer who joined the forces of the United States, in the Territory of Montana, during the war with the Nez Perce Indians, shall be paid one dollar per day during the term of such service, from the time that he left his home until he was returned thereto, including all the time spent in hospital under treatment by such as received wounds or other injuries in such service.

SEC. 2. That all persons who were wounded or disabled in such service, and the heirs of all who were killed in such service, shall be entitled to all the benefits of the pension laws, in the same manner and to the same extent as if they had been duly mustered into the regular or volunteer forces of the United States.

SEC. 3. That all horses and arms lost in such service shall be paid for at their actual value, to be duly ascertained by the commanding officer of the district of Montana: *Provided*, That no payment shall be made for such losses except upon the statement of the commanding officer of the United States troops, or such other officer of the Regular Army as might be in control of the volunteers at the time of such loss, and such other proofs as may be required by the commanding officer and the United States quartermaster for the district of Montana, to establish the fact that such losses were made in the service of the United States.

Approved March 3, 1881.

AN ACT making appropriations for the payment of invalid and other pensioners of the United States for the year ending June thirtieth, eighteen hundred and eighty-two.

* * * * *

That section forty-seven hundred and forty-four, title fifty-seven of the Revised Statutes of the United States is hereby amended to read as follows:

"SEC. 4744. The Commissioner of Pensions is authorized to detail from time to time clerks or persons employed in his office to make special examinations into the merits of such pension or bounty-land claims, whether pending or adjudicated, as he may deem proper, and to aid in the prosecution of any party appearing on such examinations to be guilty of fraud, either in the presentation or in procuring the

allowance of such claims; and any person so detailed shall have power to administer oaths and take affidavits and depositions in the course of such examinations, and to orally examine witnesses, and may employ a stenographer, when deemed necessary by the Commissioner of Pensions, in important cases, such stenographer to be paid by such clerk or person, and the amount so paid to be allowed in his accounts."

SEC. 3. "That in addition to the authority conferred by section one hundred and eighty-four, title four of the Revised Statutes, any judge or clerk of any court of the United States in any State, District, or Territory shall have power, upon the application of the Commissioner of Pensions, to issue a subpoena for a witness, being within the jurisdiction of such court, to appear, at a time and place in the subpoena stated, before any officer authorized to take depositions to be used in the courts of the United States, or before any officer, clerk, or person from the Pension Bureau designated or detailed to investigate or examine into the merits of any pension claim and authorized by law to administer oaths and take affidavits in such investigation or examination, there to give full and true answers to such written interrogatories and cross-interrogatories as may be propounded, or to be orally examined and cross-examined upon the subject of such claim; and witnesses subpoenaed pursuant to this and the preceding section shall be allowed the same compensation as is allowed witnesses in the courts of the United States, and paid in the same manner."

SEC. 4. That the Commissioner of Pensions is hereby authorized to appoint surgeons who, under his control and direction shall make such examination of pensioners and claimants for pension or increased pension as he shall require; and he shall organize boards of surgeons, to consist of three members each, at such points in each State as he shall deem necessary, and all examinations, so far as practicable, shall be made by the boards, and no examination shall be made by one surgeon excepting under such circumstances as make it impracticable for a claimant to present himself before a board: *Provided*, That the Commissioner may, when in his opinion the exigencies of the service require it, organize a board of three surgeons who, under his direction, shall review the work of any regularly-appointed board or surgeon: *Provided further*, That all examinations shall be thorough and searching, and the certificate contain a full description of the physical condition of the claimant at the time, which shall include all the

physical and rational signs and a statement of all structural changes. The fee for each examination, and satisfactory certificate thereof, shall be two dollars to each member when made by a board, and two dollars when made by one surgeon: *Provided*, That when a claimant is so disabled as not to be able to present himself to a board of surgeons for examination, the Commissioner may order a surgeon to make the examination at the claimant's residence; and the fee for such examination shall be two dollars, in addition to the payment of the actual traveling expenses of the surgeon: *Provided further*, That no fee shall be allowed or paid to any member of such board of examining surgeons who does not actually participate in such examination and sign the certificate thereof.

The Commissioner may, when in his judgment the degree of disability cannot be determined truthfully or satisfactorily excepting by expert examination, employ an expert, not a regularly appointed surgeon, to make the examination; and the fee for such examination shall be five dollars: *Provided*, That the fee for an expert examination shall not be paid to any regularly-appointed examining surgeon.

The fee of the examination of claimants who reside out of the United States shall not exceed ten dollars, which shall be paid, upon the presentation of satisfactory vouchers, out of the appropriation for the payment of the examining surgeons, and through the United States consulate nearest to the claimant's place of residence.

SEC. 5. That no person who is now receiving or shall hereafter receive a pension under a special act shall be entitled to receive in addition thereto a pension under the general law, unless the special act expressly states that the pension granted thereby is in addition to the pension which said person is entitled to receive under the general law.

Approved, July 25, 1882.

AN ACT to amend section forty-seven hundred and two, title fifty-seven, Revised Statutes of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section forty-seven hundred and two, title fifty-seven of the Revised Statutes of the United States is hereby amended so as to read as follows:

"SEC. 4702. If any person embraced within the provisions of sections forty-six hundred and ninety-two and forty-six hundred and ninety-three, has died since the fourth

day of March, eighteen hundred and sixty-one, or hereafter dies, by reason of any wound, injury, or disease which under the conditions and limitations of such sections would have entitled him to an invalid pension had he been disabled, his widow, or if there be no widow, or in the case of her death without payment to her of any part of the pension hereinafter mentioned, his child, or children under sixteen years of age, shall be entitled to receive the same pension as the husband or father would have been entitled to had he been totally disabled, to commence from the death of the husband or father, to continue to the widow during her widowhood, and to his child or children until they severally attain the age of sixteen years, and no longer; and if the widow remarry, the child or children shall be entitled from the date of remarriage, except when such widow has continued to draw the pension money after her remarriage, in contravention of law, and such child or children have resided with and been supported by her, their pension will commence at the date to which the widow was last paid."

SEC. 2. That marriages, except such as are mentioned in section forty-seven hundred and five of the Revised Statutes shall be proven in pension cases to be legal marriages according to the law of the place where the parties resided at the time of marriage or at the time when the right to pension accrued; and the open and notorious adulterous cohabitation of a widow who is a pensioner shall operate to terminate her pension from the commencement of such cohabitation.

Approved, August 7, 1882.

AN ACT making appropriations for sundry civil expenses of the government for the fiscal year ending June thirtieth, eighteen hundred and eighty-three, and for other purposes.

Pensions, &c.,
due inmates of
National Home to
be paid to treasurers, &c.

* * * * *

"That all pensions and arrears of pensions payable or to be paid to pensioners who are or may become inmates of the National Home for Disabled Volunteer Soldiers, shall be paid to the treasurers of said Home, to be applied by such treasurers as provided by law, under the rules and regulations of said Home. Said payments shall be made by the pension agent upon a certificate of the proper officer of the Home that the pensioner is an inmate thereof on the day to which said pension is drawn. The treasurers of said Home, respectively, shall give security, to the satisfaction of the managers of said Home, for the payment and application by them of all arrears of pension and pension moneys they

may receive under the aforesaid provision. And section two of the act entitled 'An act making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June thirtieth, eighteen hundred and eighty-two, and for deficiencies, and for other purposes,' approved February twenty-sixth, eighteen hundred and eighty-one, is hereby revived and continued in force."

21 Stat., 350.

* * * * *

Approved August 7, 1882.

AN ACT to relieve certain soldiers of the late war from the charge of desertion.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the charge of desertion now standing on the rolls and records in the Office of the Adjutant-General of the United States against any soldier who served in the late war in the volunteer service shall be removed in all cases where it shall be made to appear to the satisfaction of the Secretary of War, from such rolls or records, or from other satisfactory testimony, that any such soldier served faithfully until the expiration of his term of enlistment, or until the twenty-second day of May, anno Domini eighteen hundred and sixty-five, or was prevented from completing his term of service by reason of wounds received or disease contracted in the line of duty, but who, by reason of absence from his command at the time the same was mustered out, failed to be mustered out and to receive an honorable discharge.

SEC. 2. That the charge of desertion standing on the rolls and records in the Office of the Adjutant-General of the United States against any soldier who served in the late war in the volunteer service shall also be removed in all cases where it shall be made to appear to the satisfaction of the Secretary of War, from such rolls and records, or from other satisfactory testimony, that such soldier charged with desertion or with absence without leave did not intend to desert, and after such charge of desertion or absence without leave voluntarily returned to his command and served in the line of his duty until he was mustered out of the service and received a certificate of honorable discharge.

SEC. 3. That in all cases where the charge of desertion shall be removed under the provisions of this act from the record of any soldier who has not received a certificate of discharge, it shall be the duty of the Adjutant-General of

ant has not been represented by an agent or attorney prior to the passage of this act.

SEC. 2. Section forty-seven hundred and eighty-five of the Revised Statutes is hereby repealed.

Sec 4785, R. S.,
repealed.

Approved, June 20, 1878.

AN ACT to provide that all pensions on account of death, or wounds received, or disease contracted in the service of the United States during the late war of the rebellion, which have been granted, or which shall hereafter be granted, shall commence from the date of death or discharge from the service of the United States, for the payment of arrears of pensions, and other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all pensions which have been granted under the general laws regulating pensions, or may hereafter be granted, in consequence of death from a cause which originated in the United States service during the continuance of the late war of the rebellion, or in consequence of wounds, injuries, or disease received or contracted in said service during said war of the rebellion, shall commence from the date of the death or discharge from said service of the person on whose account the claim has been or shall hereafter be granted, or from the termination of the right of the party having prior title to such pension: *Provided,* The rate of pension for the intervening time for which arrears of pension are hereby granted shall be the same per month for which the pension was originally granted.

Sec sec. 4709,
R. S.

SEC. 2. That the Commissioner of Pensions is hereby authorized and directed to adopt such rules and regulations for the payment of the arrears of pensions hereby granted as will be necessary to cause to be paid to such pensioner, or, if the pensioner shall have died, to the person or persons entitled to the same, all such arrears of pension as the pensioner may be, or would have been, entitled to under this act.

Sec. 4717, R. S.,
repealed.

SEC. 3. That section forty-seven hundred and seventeen of the Revised Statutes of the United States, which provides that "no claim for pension not prosecuted to a successful issue within five years from the date of filing the same shall be admitted without record evidence from the War or Navy Department of the injury or the disease which resulted in the disability or death of the person on whose account the claim is made: *Provided,* That in any case in which the limitation prescribed by this section bars the

further prosecution of the claim, the claimant may present, through the Pension Office, to the Adjutant-General of the Army or the Surgeon-General of the Navy, evidence that the disease or injury which resulted in the disability or death of the person on whose account the claim is made originated in the service and in the line of duty; and if such evidence is deemed satisfactory by the officer to whom it may be submitted, he shall cause a record of the fact so proved to be made, and a copy of the same to be transmitted to the Commissioner of Pensions, and the bar to the prosecution of the claims shall thereby be removed," be, and the same is hereby, repealed.

SEC. 4. No claim-agent or other person shall be entitled to receive any compensation for services in making application for arrears of pension. See secs. 4763, 4769, 4786, R. S.

SEC. 5. That all acts or parts of acts so far as they may conflict with the provisions of this act be, and the same are hereby, repealed.

Approved, January 25, 1879.

AN ACT relating to soldiers while in the civil service of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all persons who, under and by virtue of the first section of the act entitled "An act supplementary to the several acts relating to pensions," approved March third, eighteen hundred and sixty-five, were deprived of their pensions during any portion of the time from the third of March, eighteen hundred and sixty-five, to the sixth of June, eighteen hundred and sixty-six, by reason of their being in the civil service of the United States, shall be paid their said pensions, withheld by virtue of said section of the act aforesaid, for and during the said period of time from the third of March, eighteen hundred and sixty-five, to the sixth of June, eighteen hundred and sixty-six. See sec. 1, act 3 Mar., 1865, and sec. 5, act 6 June, 1866, and sec. 4724, R. S.

Approved, March 1, 1879.

AN ACT making appropriations for the payment of the arrears of pensions.

* * * * *

That the rate at which the arrears of invalid pensions shall be allowed and computed in the cases which have been or shall hereafter be allowed, shall be graded according to

the degree of the pensioner's disability from time to time, and the provisions of the pension laws in force over the period for which the arrears shall be computed.

That section one of the act of January twenty-fifth, eighteen hundred and seventy-nine, granting arrears of pensions, shall be construed to extend to and include pensions on account of soldiers who were enlisted or drafted for the service in the war of the rebellion, but died or incurred disability from a cause originating after the cessation of hostilities, and before being mustered out: *Provided*, That in no case shall arrears of pensions be allowed and paid from a time prior to the date of actual disability.

SEC. 2. All pensions which have been, or which may hereafter be, granted in consequence of death occurring from a cause which originated in the service since the fourth day of March, eighteen hundred and sixty-one, or in consequence of wounds or injuries received, or disease contracted since that date, shall commence from the death or discharge of the person on whose account the claim has been or is hereafter granted, if the disability occurred prior to discharge; and if such disability occurred after the discharge, then from the date of actual disability, or from the termination of the right of party having prior title to such pension: *Provided*, The application for such pension has been or is hereafter filed with the Commissioner of Pensions prior to the first day of July, eighteen hundred and eighty, otherwise the pension shall commence from the date of filing the application; but the limitation herein prescribed shall not apply to claims by or in behalf of insane persons and children under sixteen years of age.

SEC. 3. Section forty-seven hundred and nine of the Revised Statutes is hereby repealed.

Approved March 3, 1879.

AN ACT for the relief of soldiers and sailors becoming totally blind in the service of the country.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act of June seventeenth, eighteen hundred and seventy-eight, entitled "An act to increase the pensions of certain soldiers and sailors who have lost both their hands or both their feet, or the sight of both eyes, in the service of the country," be so construed as to include all soldiers and sailors who have become totally blind from causes occurring in the service of the United States.

Approved, March 3, 1879.

See act 17 June, 1878.

See sec. 4697, 4698, R. S.

See act 16 June, 1880.

AN ACT for the relief of certain pensioners.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all pensioners now on the pension-rolls, or who may hereafter be placed thereon, for amputation of either leg at the hip joint, shall receive a pension at the rate of thirty-seven dollars and fifty cents per month from the date of the approval of this act. See sec. 4697,
4698, R. S.

Approved, March 3, 1879.

AN ACT making appropriations for the legislative, executive, and judicial expenses of the government for the fiscal year ending June thirtieth, eighteen hundred and eighty, and for other purposes.

* * * * *

SEC. 3. That sections forty-seven hundred and seventy-one, forty-seven hundred and seventy-two, and forty-seven hundred and seventy-three of the Revised Statutes of the United States, providing for biennial examinations of pensioners, are hereby repealed: *Provided*, That the Commissioner of Pensions shall have the same power as heretofore to order special examinations, whenever, in his judgment, the same may be necessary, and to increase or reduce the pension according to right and justice; but in no case shall a pension be withdrawn or reduced except upon notice to the pensioner and a hearing upon sworn testimony, except as to the certificate of the examining surgeon. Secs. 4771, 4772,
4773, repealed. * * *

Approved, June 21, 1879.

CHAP. 166.—AN ACT to restore pensions in certain cases.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section three of an act entitled "An act increasing the pensions of widows and orphans, and for other purposes," approved July twenty-fifth, eighteen hundred and sixty-six, and section thirteen of an act entitled "An act relating to pensions," approved July twenty-seventh, eighteen hundred and sixty-eight, and section forty-seven hundred and twelve of the Revised Statutes, shall not operate to reduce the rate of any pension which had actually been allowed to the commissioned, non-commissioned, or petty officers of the Navy or their widows, or minor children, prior to July twenty-fifth, eighteen hundred and sixty-six; and the Secretary of the Interior is hereby directed to restore all such pensions as See sec. 4712.

have already been so reduced to the rate originally granted and allowed, to take effect from the date of such reduction.

Approved, June 9, 1880.

CHAP. 236.—AN ACT to increase the pensions of certain pensioned soldiers and sailors who are utterly helpless from injuries received or disease contracted while in the United States service.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all soldiers and sailors who are now receiving a pension of fifty dollars per month, under the provisions of an act entitled "An act to increase the pension of soldiers and sailors who have been totally disabled," approved June eighteenth, eighteen hundred and seventy-four, shall receive, in lieu of all pensions now paid them by the Government of the United States, and there shall be paid them in the same manner as pensions are now paid to such persons, the sum of seventy-two dollars per month.

See act 18 June,
1874, act 8 Mar.,
1879, act 17 June,
1878.

SEC. 2. All pensioners whose pensions shall be increased by the provisions of this act from fifty dollars per month to seventy-two dollars per month shall be paid the difference between said sums monthly, from June seventeenth, eighteen hundred and seventy-eight, to the time of the taking effect of this act.

Approved, June 16, 1880.

AN ACT making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June thirtieth, eighteen hundred and eighty-two, and for deficiencies and for other purposes.

* * * * *

Regulating
payment of pen-
sions to inmates
of National Sol-
diers' Home.

SEC. 2. All pensions payable, or to be paid under this act, to pensioners who are inmates of the National Home for Disabled Volunteer Soldiers, shall be paid to the treasurer or treasurers of said home, upon security given to the satisfaction of the managers, to be disbursed for the benefit of the pensioners without deduction for fines or penalties under regulations to be established by the managers of the Home; said payment to be made by the pension agent upon a certificate of the proper officer of the Home that the pensioner is an inmate thereof and is still living. Any balance of the pension which may remain at the date of the pensioner's discharge shall be paid over to him; and in case of his death at the Home, the same shall be paid to the widow, or children, or in default of either to his legal representatives.

Approved, February 26, 1881.

AN ACT for the relief of citizens of Montana who served with the United States troops in the war with the Nez Perces, and for the relief of the heirs of such as were killed in such service.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That each volunteer who joined the forces of the United States, in the Territory of Montana, during the war with the Nez Perce Indians, shall be paid one dollar per day during the term of such service, from the time that he left his home until he was returned thereto, including all the time spent in hospital under treatment by such as received wounds or other injuries in such service.

SEC. 2. That all persons who were wounded or disabled in such service, and the heirs of all who were killed in such service, shall be entitled to all the benefits of the pension laws, in the same manner and to the same extent as if they had been duly mustered into the regular or volunteer forces of the United States.

SEC. 3. That all horses and arms lost in such service shall be paid for at their actual value, to be duly ascertained by the commanding officer of the district of Montana: *Provided*, That no payment shall be made for such losses except upon the statement of the commanding officer of the United States troops, or such other officer of the Regular Army as might be in control of the volunteers at the time of such loss, and such other proofs as may be required by the commanding officer and the United States quartermaster for the district of Montana, to establish the fact that such losses were made in the service of the United States.

Approved March 3, 1881.

AN ACT making appropriations for the payment of invalid and other pensioners of the United States for the year ending June thirtieth, eighteen hundred and eighty-two.

* * * * *

That section forty-seven hundred and forty-four, title fifty-seven of the Revised Statutes of the United States is hereby amended to read as follows :

"SEC. 4744. The Commissioner of Pensions is authorized to detail from time to time clerks or persons employed in his office to make special examinations into the merits of such pension or bounty-land claims, whether pending or adjudicated, as he may deem proper, and to aid in the prosecution of any party appearing on such examinations to be guilty of fraud, either in the presentation or in procuring the

allowance of such claims; and any person so detailed shall have power to administer oaths and take affidavits and depositions in the course of such examinations, and to orally examine witnesses, and may employ a stenographer, when deemed necessary by the Commissioner of Pensions, in important cases, such stenographer to be paid by such clerk or person, and the amount so paid to be allowed in his accounts."

SEC. 3. "That in addition to the authority conferred by section one hundred and eighty-four, title four of the Revised Statutes, any judge or clerk of any court of the United States in any State, District, or Territory shall have power, upon the application of the Commissioner of Pensions, to issue a subpoena for a witness, being within the jurisdiction of such court, to appear, at a time and place in the subpoena stated, before any officer authorized to take depositions to be used in the courts of the United States, or before any officer, clerk, or person from the Pension Bureau designated or detailed to investigate or examine into the merits of any pension claim and authorized by law to administer oaths and take affidavits in such investigation or examination, there to give full and true answers to such written interrogatories and cross-interrogatories as may be propounded, or to be orally examined and cross-examined upon the subject of such claim; and witnesses subpoenaed pursuant to this and the preceding section shall be allowed the same compensation as is allowed witnesses in the courts of the United States, and paid in the same manner."

SEC. 4. That the Commissioner of Pensions is hereby authorized to appoint surgeons who, under his control and direction shall make such examination of pensioners and claimants for pension or increased pension as he shall require; and he shall organize boards of surgeons, to consist of three members each, at such points in each State as he shall deem necessary, and all examinations, so far as practicable, shall be made by the boards, and no examination shall be made by one surgeon excepting under such circumstances as make it impracticable for a claimant to present himself before a board: *Provided*, That the Commissioner may, when in his opinion the exigencies of the service require it, organize a board of three surgeons who, under his direction, shall review the work of any regularly-appointed board or surgeon: *Provided further*, That all examinations shall be thorough and searching, and the certificate contain a full description of the physical condition of the claimant at the time, which shall include all the

physical and rational signs and a statement of all structural changes. The fee for each examination, and satisfactory certificate thereof, shall be two dollars to each member when made by a board, and two dollars when made by one surgeon: *Provided*, That when a claimant is so disabled as not to be able to present himself to a board of surgeons for examination, the Commissioner may order a surgeon to make the examination at the claimant's residence; and the fee for such examination shall be two dollars, in addition to the payment of the actual traveling expenses of the surgeon: *Provided further*, That no fee shall be allowed or paid to any member of such board of examining surgeons who does not actually participate in such examination and sign the certificate thereof.

The Commissioner may, when in his judgment the degree of disability cannot be determined truthfully or satisfactorily excepting by expert examination, employ an expert, not a regularly appointed surgeon, to make the examination; and the fee for such examination shall be five dollars: *Provided*, That the fee for an expert examination shall not be paid to any regularly-appointed examining surgeon.

The fee of the examination of claimants who reside out of the United States shall not exceed ten dollars, which shall be paid, upon the presentation of satisfactory vouchers, out of the appropriation for the payment of the examining surgeons, and through the United States consulate nearest to the claimant's place of residence.

SEC. 5. That no person who is now receiving or shall hereafter receive a pension under a special act shall be entitled to receive in addition thereto a pension under the general law, unless the special act expressly states that the pension granted thereby is in addition to the pension which said person is entitled to receive under the general law.

Approved, July 25, 1882.

AN ACT to amend section forty-seven hundred and two, title fifty-seven, Revised Statutes of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section forty-seven hundred and two, title fifty-seven of the Revised Statutes of the United States is hereby amended so as to read as follows:

"SEC. 4702. If any person embraced within the provisions of sections forty-six hundred and ninety-two and forty-six hundred and ninety-three, has died since the fourth

allowance of such claims; and any person so detailed shall have power to administer oaths and take affidavits and depositions in the course of such examinations, and to orally examine witnesses, and may employ a stenographer, when deemed necessary by the Commissioner of Pensions, in important cases, such stenographer to be paid by such clerk or person, and the amount so paid to be allowed in his accounts."

SEC. 3. "That in addition to the authority conferred by section one hundred and eighty-four, title four of the Revised Statutes, any judge or clerk of any court of the United States in any State, District, or Territory shall have power, upon the application of the Commissioner of Pensions, to issue a subpoena for a witness, being within the jurisdiction of such court, to appear, at a time and place in the subpoena stated, before any officer authorized to take depositions to be used in the courts of the United States, or before any officer, clerk, or person from the Pension Bureau designated or detailed to investigate or examine into the merits of any pension claim and authorized by law to administer oaths and take affidavits in such investigation or examination, there to give full and true answers to such written interrogatories and cross-interrogatories as may be propounded, or to be orally examined and cross-examined upon the subject of such claim; and witnesses subpoenaed pursuant to this and the preceding section shall be allowed the same compensation as is allowed witnesses in the courts of the United States, and paid in the same manner."

SEC. 4. That the Commissioner of Pensions is hereby authorized to appoint surgeons who, under his control and direction shall make such examination of pensioners and claimants for pension or increased pension as he shall require; and he shall organize boards of surgeons, to consist of three members each, at such points in each State as he shall deem necessary, and all examinations, so far as practicable, shall be made by the boards, and no examination shall be made by one surgeon excepting under such circumstances as make it impracticable for a claimant to present himself before a board: *Provided*, That the Commissioner may, when in his opinion the exigencies of the service require it, organize a board of three surgeons who, under his direction, shall review the work of any regularly-appointed board or surgeon: *Provided further*, That all examinations shall be thorough and searching, and the certificate contain a full description of the physical condition of the claimant at the time, which shall include all the

physical and rational signs and a statement of all structural changes. The fee for each examination, and satisfactory certificate thereof, shall be two dollars to each member when made by a board, and two dollars when made by one surgeon: *Provided*, That when a claimant is so disabled as not to be able to present himself to a board of surgeons for examination, the Commissioner may order a surgeon to make the examination at the claimant's residence; and the fee for such examination shall be two dollars, in addition to the payment of the actual traveling expenses of the surgeon: *Provided further*, That no fee shall be allowed or paid to any member of such board of examining surgeons who does not actually participate in such examination and sign the certificate thereof.

The Commissioner may, when in his judgment the degree of disability cannot be determined truthfully or satisfactorily excepting by expert examination, employ an expert, not a regularly appointed surgeon, to make the examination; and the fee for such examination shall be five dollars: *Provided*, That the fee for an expert examination shall not be paid to any regularly-appointed examining surgeon.

The fee of the examination of claimants who reside out of the United States shall not exceed ten dollars, which shall be paid, upon the presentation of satisfactory vouchers, out of the appropriation for the payment of the examining surgeons, and through the United States consulate nearest to the claimant's place of residence.

SEC. 5. That no person who is now receiving or shall hereafter receive a pension under a special act shall be entitled to receive in addition thereto a pension under the general law, unless the special act expressly states that the pension granted thereby is in addition to the pension which said person is entitled to receive under the general law.

Approved, July 25, 1882.

AN ACT to amend section forty-seven hundred and two, title fifty-seven, Revised Statutes of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section forty-seven hundred and two, title fifty-seven of the Revised Statutes of the United States is hereby amended so as to read as follows:

"SEC. 4702. If any person embraced within the provisions of sections forty-six hundred and ninety-two and forty-six hundred and ninety-three, has died since the fourth

day of March, eighteen hundred and sixty-one, or hereafter dies, by reason of any wound, injury, or disease which under the conditions and limitations of such sections would have entitled him to an invalid pension had he been disabled, his widow, or if there be no widow, or in the case of her death without payment to her of any part of the pension hereinafter mentioned, his child, or children under sixteen years of age, shall be entitled to receive the same pension as the husband or father would have been entitled to had he been totally disabled, to commence from the death of the husband or father, to continue to the widow during her widowhood, and to his child or children until they severally attain the age of sixteen years, and no longer; and if the widow remarry, the child or children shall be entitled from the date of remarriage, except when such widow has continued to draw the pension money after her remarriage, in contravention of law, and such child or children have resided with and been supported by her, their pension will commence at the date to which the widow was last paid."

SEC. 2. That marriages, except such as are mentioned in section forty-seven hundred and five of the Revised Statutes shall be proven in pension cases to be legal marriages according to the law of the place where the parties resided at the time of marriage or at the time when the right to pension accrued; and the open and notorious adulterous cohabitation of a widow who is a pensioner shall operate to terminate her pension from the commencement of such cohabitation.

Approved, August 7, 1882.

AN ACT making appropriations for sundry civil expenses of the government for the fiscal year ending June thirtieth, eighteen hundred and eighty-three, and for other purposes.

Pensions, &c.
due inmates of
National Home to
be paid to treas-
urers, &c.

"That all pensions and arrears of pensions payable or to be paid to pensioners who are or may become inmates of the National Home for Disabled Volunteer Soldiers, shall be paid to the treasurers of said Home, to be applied by such treasurers as provided by law, under the rules and regulations of said Home. Said payments shall be made by the pension agent upon a certificate of the proper officer of the Home that the pensioner is an inmate thereof on the day to which said pension is drawn. The treasurers of said Home, respectively, shall give security, to the satisfaction of the managers of said Home, for the payment and application by them of all arrears of pension and pension moneys they

may receive under the aforesaid provision. And section two of the act entitled 'An act making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June thirtieth, eighteen hundred and eighty-two, and for deficiencies, and for other purposes,' approved February twenty-sixth, eighteen hundred and eighty-one, is hereby revived and continued in force."

21 Stat., 380.

* * * * *

Approved August 7, 1882.

AN ACT to relieve certain soldiers of the late war from the charge of desertion.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the charge of desertion now standing on the rolls and records in the Office of the Adjutant-General of the United States against any soldier who served in the late war in the volunteer service shall be removed in all cases where it shall be made to appear to the satisfaction of the Secretary of War, from such rolls or records, or from other satisfactory testimony, that any such soldier served faithfully until the expiration of his term of enlistment, or until the twenty-second day of May, anno Domini eighteen hundred and sixty-five, or was prevented from completing his term of service by reason of wounds received or disease contracted in the line of duty, but who, by reason of absence from his command at the time the same was mustered out, failed to be mustered out and to receive an honorable discharge.

SEC. 2. That the charge of desertion standing on the rolls and records in the Office of the Adjutant-General of the United States against any soldier who served in the late war in the volunteer service shall also be removed in all cases where it shall be made to appear to the satisfaction of the Secretary of War, from such rolls and records, or from other satisfactory testimony, that such soldier charged with desertion or with absence without leave did not intend to desert, and after such charge of desertion or absence without leave voluntarily returned to his command and served in the line of his duty until he was mustered out of the service and received a certificate of honorable discharge.

SEC. 3. That in all cases where the charge of desertion shall be removed under the provisions of this act from the record of any soldier who has not received a certificate of discharge, it shall be the duty of the Adjutant-General of

the United States to issue to such soldier, or, in case of his death, to his heirs or legal representatives, a certificate of discharge.

SEC. 4. That when the charge of desertion shall be removed under the provisions of this act from the record of any soldier, such soldier, or in case of his death, the heirs or legal representatives of such soldier, shall receive all pay and bounty which may have been withheld on account of such charge of desertion or absence without leave: *Provided, however,* That this act shall not be so construed as to give to any such soldier as may be entitled to relief under the provisions of this act, or, in the case of his death, to the heirs or legal representatives of any such soldier, the right to receive pay and bounty for any period of time during which such soldier was absent from his command without leave of absence: *And provided further,* That no soldier nor the heirs nor legal representatives of any soldier, who served in the Army a period of less than twelve months, or who intentionally deserted shall be entitled to the benefit of the provisions of this act.

SEC. 5. That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Approved, August 7, 1882.

AN ACT to amend section forty-seven hundred and sixty-six, title fifty-seven, of the Revised Statutes of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section forty-seven hundred and sixty-six, title fifty-seven, of the Revised Statutes of the United States is hereby amended to read as follows :

“SEC. 4766. Hereafter no pension shall be paid to any person other than the pensioner entitled thereto, nor otherwise than according to the provisions of this title; and no warrant, power of attorney, or other paper executed or purporting to be executed by any pensioner to any attorney, claim agent, broker, or other persons shall be recognized by any agent for the payment of pensions, nor shall any pension be paid thereon; but the payment to persons laboring under legal disabilities may be made to the guardians of such persons in the manner herein prescribed, and pensions payable to persons in foreign countries may be made according to the provisions of existing laws: *Provided,* That in

case of an insane invalid pensioner having no guardian, but having a wife or children dependent upon him (the wife being a woman of good character), the Commissioner of Pensions is hereby authorized, in his discretion, to cause the pension to be paid to the wife, upon her properly-executed voucher, or in case there is no wife, to the guardian of the children, upon the properly-executed voucher of such guardian, and in like manner to cause the pension of invalid pensioners who are or may hereafter be imprisoned as punishment for offenses against the laws to be paid while so imprisoned to their wives or the guardians of their children. And pensions to Indian pensioners residing in the Indian Territory may be paid in person by the pension agent, upon a suitable voucher, at some convenient point in said Territory, which, together with the form and manner of identification of the pensioners, may be prescribed by the Secretary of the Interior; such payments to be made in standard silver, at least once in each current year. And payments in person shall be made to the pensioner, in cash, by the pension agent whenever in the discretion of the Commissioner of Pensions such personal payment shall be by him deemed necessary or proper to secure to the pensioner his rights; and the necessary and actual expenses of such pension agent in making such payments shall be paid by the Secretary of the Interior upon properly-executed vouchers, out of the contingent fund appropriated for the use of the Pension Office. The Commissioner of Pensions may, when in his judgment it shall be deemed necessary or proper, visit in person, for the purpose of examination and inspection, or may send any one or more of the officers of his bureau for that purpose, any of the pension agencies or medical examining boards or surgeons; and the necessary and actual expenses of such visits shall be paid by the Secretary of the Interior, upon properly executed vouchers, out of the contingent fund of said bureau.

Approved, August 8, 1882.

AN ACT making appropriations for the legislative, executive, and judicial expenses of the government for the fiscal year ending June thirtieth, eighteen hundred and eighty-three, and for other purposes.

* * * * *

For the compensation of the Commissioner of Pensions five thousand dollars; first deputy commissioner, three thou-

sand six hundred dollars; second deputy commissioner, three thousand six hundred dollars; chief clerk, two thousand five hundred dollars; assistant chief clerk, two thousand dollars; medical referee, two thousand five hundred dollars; assistant medical referee, two thousand two hundred and fifty dollars; four qualified surgeons, who shall be experts in their profession, at two thousand dollars each; fifteen medical examiners, who shall be surgeons of education, skill and experience in their profession, at one thousand eight hundred dollars each; twelve chiefs of division, at two thousand dollars each; law clerk, two thousand dollars; thirty-five principal examiners for review board, at two thousand dollars each; twenty-four assistant chiefs of division, at one thousand eight hundred dollars each; sixty-five clerks of class four; ninety-five clerks of class three; three hundred and ninety clerks of class two; three hundred and ninety-eight clerks of class one; two hundred and fifty clerks, at one thousand dollars each; one superintendent of buildings, one thousand four hundred dollars; two engineers, at one thousand two hundred dollars each; one hundred and fifty copyists at nine hundred dollars each; forty copyists at seven hundred and twenty dollars each; twenty messengers; twenty-five watchmen; and twenty-five laborers; in all, one million nine hundred and fifty-seven thousand one hundred and fifty dollars.

For per diem, when absent from home on duty, for traveling examiners, in lieu of expenses of subsistence, not exceeding three dollars per day, and for actual and necessary expenses for transportation, three hundred thousand dollars. And the provisions of section fifty-four hundred and eighty-five of the Revised Statutes shall be applicable to any person who shall violate the provisions of an act entitled "An act relating to claim agents and attorneys in pension cases," approved June twentieth eighteen hundred and seventy-eight. That the duties of first and second deputy commissioners shall be such as are now fixed by law for the deputy commissioner of pensions; and in case of death, resignation, absence, or sickness of the Commissioner his duties shall devolve upon the first deputy commissioner until his successor is appointed, or such absence or sickness ceases, and in case of the like absence of the Commissioner and first deputy commissioner, the second deputy commissioner shall act as Commissioner in like manner.

CHAP. 58.—AN ACT making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June thirtieth, eighteen hundred and eighty-four, and for other purposes.

* * * * *

SEC. 2. That section forty-seven hundred and forty-five, title fifty-seven of the Revised Statutes of the United States is hereby amended to read as follows :

R. S. 4745, 923.
Amended.

SEC. 4745. Any pledge, mortgage, sale, assignment, or transfer of any right, claim, or interest in any pension which has been, or may hereafter be, granted, shall be void and of no effect, and any person who shall pledge, or receive as a pledge, mortgage, sale, assignment or transfer of any right, claim, or interest in any pension, or pension certificate, which has been, or may hereafter be granted or issued, or who shall hold the same as collateral security for any debt, or promise, or upon any pretext of such security, or promise, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not exceeding one hundred dollars and the costs of the prosecution ; and any person who shall retain the certificate of a pensioner and refuse to surrender the same upon the demand of the Commissioner of Pensions, or a United States pension agent, or any other person, authorized by the Commissioner of Pensions, or the pensioner, to receive the same shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not exceeding one hundred dollars and the costs of the prosecution.

Any pledge or transfer of pension void.

Penalties.

Approved, February 28, 1883.

CHAP. 91.—AN ACT to amend the pension laws by increasing the pensions of soldiers and sailors who have lost an arm or leg in the service, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act all persons on the pension-roll, and all persons hereafter granted a pension, who, while in the military or naval service of the United States, and in the line of duty, shall have lost one hand or one foot, or been totally or permanently disabled in the same, or otherwise so disabled as to render their incapacity to perform manual labor equivalent to the loss of a hand or a foot, shall receive a pension of twenty-four dollars per month ; that all persons now on the pension-roll, and all persons hereafter granted a pension, who in like manner shall have lost either

Increase of pension of soldiers and sailors who have lost an arm or leg in service.

Equivalent in capacity.

Loss of arm an arm at or above the elbow, or a leg at or above the knee, above elbow, or leg above the knee. or shall have been otherwise so disabled as to be incapacitated for performing any manual labor, but not so much as to require regular personal aid and attendance, shall receive a

proviso.

R. S. 4690, §15.

tated for performing any manual labor, but not so much as to require regular personal aid and attendance, shall receive a pension of thirty dollars per month: *Provided*, That nothing contained in this act shall be construed to repeal section forty-six hundred and ninety-nine of the Revised Statutes of the United States, or to change the rate of eighteen dollars per month therein mentioned to be proportionately divided for any degree of disability established for which section forty-six hundred and ninety-five makes no provision.

Approved, March 3, 1883.

CHAP. 130.—AN ACT prescribing regulations for the Soldiers' Home located at Washington, in the District of Columbia, and for other purposes

Pensioners inmates of Home can allot portion of pension, &c.

SEC. 4. That any inmate of the Home who is receiving a pension from the government, and who has a child, wife, or parent living, shall be entitled, by filing with the pension agent from whom he receives his money a written direction to that effect, to have his pension, or any part of it, paid to such child, wife, or parent. The pensions of all who now are or shall hereafter become inmates of the Home, except such as shall be assigned as aforesaid, shall be paid to the treasurer of the Home. The money thus derived shall not become a part of the funds of the Home, but shall be held by the treasurer in trust for the pensioner to whom it would otherwise have been paid, and such part of it as shall not sooner have been paid to him shall be paid to him on his discharge from the institution. The board of commissioners may from time to time pay over to any inmate such part of his pension-money as they think best for his interest and consistent with the discipline and good order of the Home, but such pensioner shall not be entitled to demand or have the same so long as he remains an inmate of the Home. In case of the death of any pensioner, any pension money due him and remaining in the hands of the treasurer shall be paid to his legal heirs, if demand is made within three years; otherwise the same shall escheat to the Home.

Pensions, &c., to be paid to treasurer.

Pension paid in full on discharge of pensioner from the Home.

Death of pensioner; money due, &c., paid to legal heirs.

Approved March 3, 1883.

AN ACT making it a felony for a person to falsely and fraudulently assume or pretend to be an officer or employee acting under authority of the United States or any Department or any officer thereof, and prescribing a penalty therefor.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That every person who, with intent to defraud either the United States or any person, falsely assumes or pretends to be an officer or employee acting under the authority of the United States, or any Department, or any officer of the Government thereof, and who shall take upon himself to act as such, or who shall in such pretended character demand or obtain from any person or from the United States, or any Department, or any officer of the Government thereof, any money, paper, document, or other valuable thing, shall be deemed guilty of felony, and shall, on conviction thereof, be punished by a fine of not more than one thousand dollars, or imprisonment not longer than three years, or both said punishments, in the discretion of the court.

Approved, April 18, 1884.

CHAP. 63.—AN ACT to provide for the muster and pay of certain officers and enlisted men of the volunteer forces.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the joint resolution approved July eleventh, eighteen hundred and seventy, entitled "Joint resolution amendatory of joint resolution for the relief of certain officers of the Army," approved July twenty-sixth, eighteen hundred and sixty-six, is hereby so amended and shall be so construed that in all cases arising under the same any person who was duly appointed and commissioned, whether his commission was actually received by him or not, shall be considered as commissioned to the grade therein named from the date when his commission was actually issued by competent authority, and shall be entitled to all pay and emoluments as if actually mustered at such date: *Provided*, That at the date of his commission he was actually performing the duties of the grade to which he was so commissioned, or, if not so performing such duties, then from such time after the date of his commission as he may have actually entered upon such duties: *And provided further*, That any person held as a prisoner of war, or who may have been absent by reason of wounds or in hospital by reason of disability received in the service in the line of duty, at the date of his commission, if

16 Stat., 385.

Officers to be considered of the grade named therein from date commissioned, whether receiving commission or not.

Provided.

Prisoners of war, &c., in case of vacancy in grade to which commissioned entitled to pay, &c.

a vacancy existed for him in the grade to which so commissioned, shall be entitled to the same pay and emoluments as if actually performing the duties of the grade to which he was commissioned and actually mustered at such date:

Proviso; to apply to cases where commission is prior to June 20, 1863, &c.

And provided further, That this act and the resolution hereby amended shall be construed to apply only in those cases where the commission bears date prior to June twentieth, eighteen hundred and sixty-three, or after that date when their commands were not below the minimum number required by existing laws and regulations: *And provided further,* That the pay and allowances actually received shall be deducted from the sums to be paid under this act.

Proviso.

Heirs, &c., to receive arrears of pay and pension.

SEC. 2. That the heirs or legal representatives of any officer whose muster into the service has been or shall be amended hereby shall be entitled to receive the arrears of pay due such officer, and the pension, if any, authorized by law, for the grade into which such officer is mustered under the provisions of this act.

Claims barred after three years.

SEC. 3. That all claims arising under this act shall be presented to and filed in the proper Department within three years from and after the passage hereof, and all such claims not so presented and filed within said three years shall be forever barred, and no allowance ever made thereon.

Pay, &c., not to be recovered by reason of defect in title, &c., of appointment.

SEC. 4. That the pay and allowances of a rank or grade paid to and received by any military or naval officer in good faith for services actually performed by such officer in such rank or grade during the war of the rebellion shall not be charged to or recovered back from such officer because of any defect in the title of such officer to the office, rank, or grade in which such services were so actually performed.

Approved, June 3, 1884.

CHAP. 181.—AN ACT making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June thirtieth, eighteen hundred and eighty-five, and for other purposes.

Pensions. Appropriations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the payment of pensions for the fiscal year ending June thirtieth, eighteen hundred and eighty-five, and for other purposes, namely:

Army and Navy pensions.

For Army and Navy pensions as follows: For invalids, widows, minor children, and dependent relatives, and survivors and widows of the war of eighteen hundred and

twelve, twenty million dollars; and any balance of the appropriation for the above purposes for the current fiscal year that may remain unexpended on the thirtieth of June, eighteen hundred and eighty-four, estimated at sixty-six million dollars, is hereby reappropriated and made available for the service of the year ending June thirtieth, eighteen hundred and eighty-five: *Provided*, That the appropriations aforesaid for Navy pensions shall be paid from the income of the Navy pension fund, so far as the same may be sufficient for that purpose: *And provided further*, That the amount expended under each of the above items shall be accounted for separately.

Unexpended balance of appropriation re-appropriated.

Proviso: Income of Navy pension fund to apply to appropriation for Navy pensions.

Proviso.

For fees and expenses of examining surgeons, five hundred thousand dollars.

Fees of examining surgeons.

For pay and allowances of pension agents: For salary, fees for preparing vouchers, rent, fuel, lights, and postage on letters to the Executive Departments and to pensioners, three hundred thousand dollars: *Provided*, That from and after July first eighteen hundred and eighty-four agents for the payment of pensions shall receive only twelve dollars and fifty cents for each one hundred vouchers, or at that rate for a fraction of one hundred, prepared and paid by any agent in excess of four thousand vouchers per annum.

Pension agents.

Proviso.

Pay of agents.

For contingent expenses of pension agencies, ten thousand dollars.

Contingent expenses at agencies.

That the act entitled "An act relating to claim agents and attorneys in pension cases," approved June twentieth, eighteen hundred and seventy-eight, is hereby repealed: *Provided however*, That the rights of the parties shall not be abridged or affected as to contracts in pending cases, as provided for in said act; but such contracts shall be deemed to be and remain in full force and virtue, and shall be recognized as contemplated by said act.

Attorneys' fees in pension cases; act relating to, repealed.
20 Stat., 243.
Proviso.

SEC. 2. That sections forty-seven hundred and sixty-eight, forty-seven hundred and sixty-nine, and forty-seven hundred and eighty-six of the Revised Statutes are hereby made applicable also to all cases hereafter filed with the Commissioner of Pensions, and to all cases so filed since June twentieth, eighteen hundred and seventy-eight, and which have not been heretofore allowed, except as hereinafter provided.

R. S. 4768, 927.
R. S. 4769, 927. R. S. 4786, 929 made applicable in certain cases.

SEC. 3. That section forty-seven hundred and eighty-five of the Revised Statutes is hereby re-enacted and amended so as to read as follows:

R. S. 4785, 929, re-enacted and amended.

"SEC. 4785. No agent or attorney or other person shall demand or receive any other compensation for his services

Fees of attorney for prosecuting claims.

in prosecuting a claim for pension or bounty land than such as the Commissioner of Pensions shall direct to be paid to him, not exceeding twenty-five dollars; nor shall such agent, attorney or other person demand or receive such compensation, in whole or in part, until such pension or bounty-land claim shall be allowed: *Provided*, That in all claims allowed since June twentieth eighteen hundred and seventy-eight where it shall appear to the satisfaction of the Commissioner of Pensions that the fee of ten dollars, or any part thereof, has not been paid, he shall cause the same to be deducted from the pension, and the pension agent to pay the same to the recognized attorney."

Proviso.

Fees not paid in certain cases to be deducted from pension.

R. S. 4786, 929, amended.

SEC. 4. That section forty-seven hundred and eighty-six of the Revised Statutes is hereby amended so as to read as follows :

Agreement for amount of fee to be filed.

"SEC. 4786. The agent or attorney of record in the prosecution of the case may cause to be filed with the Commissioner of Pensions, duplicate articles of agreement, without additional cost to the claimant, setting forth the fee agreed upon by the parties, which agreement shall be executed in the presence of and certified by some officer competent to administer oaths. In all cases where application is made for pension or bounty land, and no agreement is filed with the Commissioner as herein provided, the fee shall be ten dollars and no more. And such articles of agreement

Fee in case of failure to file agreement.

Articles of agreement, &c., recognized in certain claims only.

as may hereafter be filed with the Commissioner of Pensions are not authorized, nor will they be recognized except in claims for original pensions, claims for increase of pension on account of a new disability, in claims for restoration where a pensioner's name has been or may hereafter be dropped from the pension rolls on testimony taken by a special examiner, showing that the disability or cause of death, on account of which the pension was allowed, did not originate in the line of duty, and in cases of dependent relatives whose names have been or may hereafter be, dropped from the rolls on like testimony, upon the ground of non-dependence, and in such other cases of difficulty and trouble as the Commissioner of Pensions may see fit to recognize them: *Provided*, That no greater fee than ten dollars shall be demanded, received, or allowed in any claim

Proviso.

Fee for bounty-land, etc.

No fee allowed for arrears of pension, &c.

for pension or bounty land granted by special act of Congress, nor in any claim for increase of pension on account of the increase of the disability for which the pension had been allowed: *And provided further*, That no fee shall be demanded, received, or allowed in any claim for arrears of pension or arrears of increase of pension allowed by any act

of Congress passed subsequent to the date of the allowance of the original claims in which such arrears of pension, or of increase of pension, may be allowed."

The articles of agreement herein provided for shall be in substance as follows to wit:

ARTICLES OF AGREEMENT.

Whereas I, _____, late a _____ in company _____, ^{Form of arti-}
of the _____ regiment of _____ volunteers, war of eighteen ^{cles of agree-}
hundred and sixty-one (or, if the service be different, here ^{ment.}
state the same), having made application for pension under
the laws of the United States:

Now, this agreement witnesseth, that for and in consideration of services done and to be done in the premises, I hereby agree to allow my attorney, _____ of _____, the fee of _____ dollars, which shall include all amounts to be paid for any service in furtherance of said claim; and said fee shall not be demanded by or payable to my said attorney (or attorneys), in whole or in part, except in case of the granting of my pension by the Commissioner of Pensions; and then the same shall be paid to him (or them) in accordance with the provisions of sections forty-seven hundred and sixty-eight and forty-seven hundred and sixty-nine of the Revised Statutes.

(Claimant's signature.)

(Two witnesses' signatures.)

STATE OF _____

County of _____, ss.

Be it known that on this, the _____ day of _____, anno Domini eighteen hundred and eighty _____, personally appeared the above-named _____, who, after having had read over to _____, in the hearing and presence of the two attesting witnesses, the contents of the foregoing articles of agreement, voluntarily signed and acknowledged the same to be _____ free act and deed.

(Official signature.)

And now, to wit, this _____ day of _____, anno Domini eighteen hundred and eighty _____, I (or we) accept the provisions contained in the foregoing articles of agreement, and will, to the best of my (or our) ability, endeavor faithfully to represent the interest of the claimant in the premises.

Witness my (or our) hand, the day and year first above written.

(Signature of attorney.)

STATE OF _____

County of _____, ss.

Personally came _____, whom I know to be the person he represents himself to be, and who, having signed above acceptance of agreement, acknowledged the same to be — free act and deed.

(Official signature.)

Amount paid,
&c., to be de-
ducted from fee.

And if in the adjudication of any claim for pension in which such articles of agreement have been, or may hereafter be, filed, it shall appear that the claimant had, prior to the execution thereof, paid to the attorney any sum for his services in such claim, and the amount so paid is not stipulated therein, then every such claim shall be adjudicated in the same manner as though no articles of agreement had been filed, deducting from the fee of ten dollars allowed by law such sum as claimant shall show that he has paid to his said attorney.

Penalty for vio-
lation of act re-
lating to fees or
compensation.

Any agent or attorney or other person instrumental in prosecuting any claim for pension or bounty land, who shall directly or indirectly contract for, demand or receive or retain any greater compensation for his services or instrumentality in prosecuting a claim for pension or bounty land than is herein provided, or for payment thereof at any other time or in any other manner than is herein provided, or who shall wrongfully withhold from a pensioner or claimant the whole or any part of the pension or claim allowed and due such pensioner or claimant, or the land warrant issued to any such claimant, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall for every such offense be fined not exceeding five hundred dollars, or imprisoned at hard labor not exceeding two years, or both, in the discretion of the court.

Secretary of
Interior to pre-
scribe rules for
government of
agents, &c., in
prosecution of
claims.

SEC. 5. That the Secretary of the Interior may prescribe rules and regulations governing the recognition of agents, attorneys, or other persons representing claimants before his department, and may require of such persons, agents, and attorneys, before being recognized as representatives of claimants, that they shall show that they are of good moral character and in good repute, possessed of the necessary qualifications to enable them to render such claimants valuable service, and otherwise competent to advise and assist such claimants in the presentation of their claims, and such Secretary may, after notice and opportunity for a hearing, suspend or exclude from further practice before his department any such person, agent or attorney shown to be in-

competent, disreputable, or who refuses to comply with the said rules and regulations, or who shall with intent to defraud in any manner deceive, mislead, or threaten any claimant, or prospective claimant, by word, circular, letter, or by advertisement.

SEC. 6. The Commissioner shall have power, subject to review by the Secretary, to reject or refuse to recognize any contract for fees, herein provided for, whenever it shall be made to appear that any undue advantage has been taken of the claimant in respect to such contract.

Commissioner of Pensions may reject contracts for fees, &c.

Approved, July 4, 1884.

CHAP. 222.—AN ACT to relieve certain soldiers from the charge of desertion.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the charge of desertion now standing on the rolls and records in the Office of the Adjutant-General of the United States against any soldier who served in the late war in the volunteer service shall be removed in all cases where it shall be made to appear to the satisfaction of the Secretary of War, from such rolls and records, or from other satisfactory testimony, that any such soldier served faithfully until the expiration of his term of enlistment, or until the first day of May, anno Domini eighteen hundred and sixty-five, having previously served six months or more, or was prevented from completing his term of service by reason of wounds received or disease contracted in the line of duty, but who, by reason of absence from his command at the time the same was mustered out, failed to be mustered out and to receive an honorable discharge: *Provided*, That no soldier shall be relieved under this section who, not being sick or wounded, left his command without proper authority whilst the same was in the presence of the enemy.

Soldiers charged with desertion. relief of; conditions.

Provided.

SEC. 2. That the Secretary of War is hereby authorized to remove the charge of desertion from the records of any soldier in the late war upon proper application therefor and satisfactory proof in the following cases:

Terms and proof upon which relief may be granted.

First. That such soldier, after such charge of desertion was made, and within a reasonable time thereafter, voluntarily returned to his command and served faithfully to the end of his term of service.

Second. That such soldier absented himself without proper authority from hospital, or from furlough given from hospital, while suffering from wounds, injuries, or disease received or contracted in the service in the line of duty, and,

on recovery, voluntarily returned to his command and served faithfully until discharged, or died from such wounds, injury, or disease while so absent and before the date of the muster out of his command.

Third. That such soldier absented himself without proper authority from furlough given by proper authority, and while so absent died from wounds, injury, or disease received or contracted in the service in the line of duty before the muster out of his command.

Certificate of discharge.

SEC. 3. That in all cases where the charge of desertion shall be removed under the provisions of this act from the record of any soldier who has not received a certificate of discharge, it shall be the duty of the Adjutant-General of the United States to issue to such soldier, or, in case of his death, to his heirs or legal representatives, a certificate of discharge.

Pay and bounty.

SEC. 4. That when the charge of desertion shall be removed under the provisions of this act from the record of any soldier, such soldier, or, in case of his death, the heirs or legal representatives of such soldier, shall receive the pay and bounty due to such soldier: *Provided, however,* That this act shall not be so construed as to give to any such soldier, or, in case of his death, to the heirs or legal representatives of any such soldier, any pay bounty or allowance for any period of time during which such soldier was absent from his command without proper authority, nor shall it be so construed as to give any pay, bounty, or allowance to any soldier, his heirs or legal representatives, who served in the Army a period of less than six months.

Provided.

Applications for relief to be filed, &c.

SEC. 5. That all applications for relief under this act shall be made to and filed with the Secretary of War within the period of five years from and after its passage, and all applications not so made and filed within said term of five years shall be forever barred and shall not be received or considered.

SEC. 6. That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Approved, July 5, 1884.

CHAP. 340.—AN ACT making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June thirtieth, eighteen hundred and sixty-six, and for other purposes.

Appropriation for the payment of pensions for the fiscal year ending June 30, 1884.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropri-

ated, for the payment of pensions for the fiscal year ending June thirtieth, eighteen hundred and eighty-six, and for other purposes, namely :

For Army and Navy pensions as follows: For invalids, widows, minor children, and dependent relatives, and survivors and widows of the war of eighteen hundred and twelve, fifty-nine million one hundred and seventy-two thousand dollars: *Provided*, That the appropriations aforesaid for Navy pensions shall be paid from the income of the Navy pension fund, so far as the same may be sufficient for that purpose: *And provided further*, That the amount expended under each of the above items shall be accounted for separately.

Army and Navy pensions.

Proviso.

For fees and expenses of examining surgeons, five hundred thousand dollars. And each member of each examining board shall, as now authorized by law, receive the sum of two dollars for the examination of each applicant whenever five or a less number shall be examined on any one day, and one dollar for the examination of each additional applicant on such day: *Provided*, That if twenty or more applicants appear on one day, no fewer than twenty shall, if practicable, be examined on said day, and that if fewer examinations be then made, twenty or more having appeared, then there shall be paid for the first examinations made on the next examination day the fee of one dollar only until twenty examinations shall have been made: *Provided*, That all applicants for pensions shall be presumed to have had no disability at the time of enlistment; but such presumption may be rebutted.

Examining surgeons and members of examining board.

Proviso.

Number that may be examined and fees.

Proviso.

Applicant presumed to have had no disability at time of enlistment.

For the salaries of eighteen agents for the payment of pensions, at four thousand dollars each, seventy-two thousand dollars.

Agents.

For fees for preparing vouchers, rent, fuel, lights, postage on letters to the Executive Departments and to pensioners, stationery, and other necessary expenses, to be approved by the Secretary of the Interior, two hundred and fifty-six thousand dollars: *Provided*, That from and after June thirtieth, eighteen hundred and eighty-five, the salary and emoluments of agents for the payment of pensions shall be four thousand dollars, and no more, per annum; and of the fees provided by law for vouchers prepared and paid, only so much thereof as may be required for expenses incurred in having said vouchers prepared, as well as the necessary clerical work at the agencies, shall be available.

Contingent expenses.

Proviso.

Pay of pension agent not to exceed four thousand dollars per annum.

Approved, March 3d, 1885.

7018 PEN—39

CHAP. 352.—AN ACT for the benefit of soldiers and sailors who have lost an arm at the shoulder-joint.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all soldiers and sailors of the United States who have had an arm taken off at the sholder-joint, caused by injuries received in the service of their country while in the line of duty, and who are now receiving pensions, shall have their pensions increased to the same amount that the law now gives to soldiers and sailors who have lost a leg at the hip-joint; and this act shall apply to all who shall be hereafter placed on the pension-roll.

Approved, March 3d, 1885.

Soldiers and
sailors of United
States.

Pension here-
after for loss of
arm at shoulder-
joint to be same
as for loss of leg
at hip-joint.

BOUNTY-LAND LAWS,

**INCLUDING REVISED STATUTES AND ALL OLD LAWS NOT
RE-ENACTED THEREIN, BUT**

STILL IN FORCE.



BOUNTY-LAND LAWS.

Act of February 11, 1847.

SEC. 9. *And be it further enacted,* That each non-commissioned officer, musician, or private, enlisted or to be enlisted in the Regular Army, or regularly mustered in any volunteer company for a period not less than twelve months, who has served or may serve during the present war with Mexico, and who shall receive an honorable discharge, or who shall have been killed, or died of wounds received or sickness incurred in the course of such service, or who shall have been discharged before the expiration of his term of service in consequence of wounds received or sickness incurred in the course of such service, shall be entitled to receive a certificate or warrant from the War Department for the quantity of one hundred and sixty acres. * * * That in the event of the death of any such non-commissioned officer, musician, or private, during service, or after his discharge, and before the issuing of a certificate or warrant as aforesaid, the said certificate or warrant shall be issued in favor, and inure to the benefit, of his family or relatives, according to the following rules: first to the widow and to his children; second, his father; third, his mother; and in the event of his children being minors, then the legally-constituted guardian of such minor children, shall, in conjunction with such of the children, if any, as may be of full age, upon being duly authorized by the orphans or other court having probate jurisdiction, have power to sell and dispose of such certificate or warrant for the benefit of those interested: *Provided, further,* That every such non-commissioned officer, musician, and private, who may be entitled, under the provisions of this act, to receive a certificate or warrant for one hundred and sixty acres of land, shall be allowed the option to receive such certificate or warrant, or a treasury scrip for one hundred dollars; and such scrip, whenever it is preferred, shall be issued by the Secretary of the Treasury to such person or persons as would be authorized to receive such certificates or warrants for lands; said scrip to bear an interest of six per cent. per annum, payable semi-annually, redeemable at the pleasure of the Government. And that each private, non-commis-

Soldiers enlisted in Regular Army or mustered as volunteers for not less than 12 months.

Vol. 9, p. 123, Stats. at Large.

Honorably discharged, killed, or died in service.

Discharged for wounds or sickness.

One hundred and sixty acres.

When soldier dies before issue of warrant, title descends to the widow and children, father or mother.

Provide that every person entitled to receive a land warrant may receive scrip for \$100, bearing 6 per cent. interest.

Forty acres allowed on account of service under enlistment for less than twelve months.

sioned officer and musician, who shall have been received into the service of the United States since the commencement of the war with Mexico, for less than twelve months, and shall have served for such term or until honorably discharged, shall be entitled to receive a warrant for forty acres of land, which may be subject to private entry, or twenty-five dollars in scrip, if preferred; and in the event of the death of such volunteer during his term of service, or after an honorable discharge, but before the passage of this act, then the warrant for such land, or scrip, shall issue to the wife, child or children, if there be any, and if none, then to the father, and if there be no father, then to the mother of such deceased volunteer.

Act of May 27, 1848, amending act of February 11, 1847.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the term "relatives," as used in the ninth section of the act entitled, "An act to raise, for a limited time, an additional military force, and for other purposes," approved eleventh February, eighteen hundred and forty seven, shall be considered as extending to the brothers and sisters of those persons whose services, under that act, may have entitled them to the land therein provided: The order or priority of

On failure of other relatives, brothers and sisters are entitled.

Vol. 9, p. 232, State. at Large.

right, however, shall remain as declared in that act; and those failing, the right shall accrue, fourthly, to the brother or sister, or in equal proportions to the brothers and sisters of the deceased, as the case may be.

SEC. 2. *And be it further enacted, That the benefits of the said act of eleventh February, eighteen hundred and forty-seven shall not be construed as forfeited by the privates and non-commissioned officers who have been or may be promoted to the grade of commissioned officer during their service in Mexico, and who shall have subsequently fulfilled the condition of their engagements: Provided, such promotion shall have been made subsequent to the original organization of the company, corps or regiment to which such privates and non-commissioned officers may have belonged.*

Promotion of privates and non-commissioned officers does not bar title.

Act of June 16, 1848.

Joint resolution in relation to the transportation and discharge of the military forces of the United States at the close of the war with Mexico.

Vol. 9, p. 335, State. at Large.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That on the restoration of peace with Mexico by a treaty of peace duly ratified and proclaimed, all the military forces of the United States, whether volunteers, regulars, or the marine corps, who by law, or the terms of their engagement, are to be dis-

charged at the close of the war, shall, under the direction of the President of the United States, be transported or marched with the least practicable delay, to such posts or places in the United States as may be least expensive and most convenient to the troops—and at such places they shall be discharged from the service of the United States; and that until they shall respectively reach such places and be discharged, the officers and men shall be considered, paid, and treated as in the service of the United States, in the same manner as if the war had not closed.

Act of July 10, 1848.

SEC. 2. *And be it further enacted*, That those enlisted men of the ordnance department who have served, or may serve, in Mexico during the war with that country, shall be entitled to, and shall receive, the same bounty in land as is or may be allowed by law to other regular troops in the service of the United States, and under like limitations and restrictions.

Bounty-lands granted to enlisted men of the Ordnance Department who served in the war with Mexico.

Vol. 9, p. 240, Stats. at Large.

Act of August 10, 1848.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the officers, non-commissioned officers, privates, and musicians, of the marine corps, who have served with the Army in the war with Mexico, and also the artificers and laborers of the ordnance corps serving in said war, be placed, in all respects as to bounty land and other remuneration, in addition to ordinary pay, on a footing with the officers, non commissioned officers, privates, and musicians of the Army: *Provided*, That this remuneration shall be in lieu of prize money and all other extra allowances.

Joint reapportionment concerning certain portions of the Marine and Ordnance Corps who have served with the Army in the war with Mexico.

Vol. 9, p. 240, Stats. at Large.

Act of March 3, 1849.

AN ACT making appropriation for the civil and diplomatic expenses of Government for the year ending the 30th of June, 1850, and for other purposes.

* * * * *

For the redemption of the Treasury scrip heretofore issued for the satisfaction of the bounties promised to the non-commissioned officers, musicians, and privates by the ninth section of the act of the eleventh of February, eighteen hundred and forty seven, to raise for a limited time an additional military force, and for other purposes, and for the satisfaction in money of such bounties due under said section of said act as those to whom they are due may elect to receive in money instead of land, three hundred thousand

dollars. And the Secretary of the Treasury is hereby directed, immediately after the passage of this act, to give notice by publication for sixty days in at least one of the principal papers in Washington City, Baltimore, Philadelphia, New York, and Boston, and in such other papers as he may deem expedient, that the principal and interest of such scrip as has been or may be issued prior to the first of July, Anno Domini, eighteen hundred and forty nine, will be paid on that day on presentation at the Treasury of the United States, and that the interest on such scrip will cease on that day. And the said Secretary is further directed not to issue scrip for said bounty after that day, but to pay the same in money out of this appropriation in all cases when the person entitled to the bounty in land shall elect to receive money in lieu thereof.

[NOTE.—The compilers of the Revised Statutes seem to have overlooked the above-quoted provision of the act of March 3, 1849 (an appropriation act), which repealed so much of the act of February 11, 1847, as provided for the issue of scrip in lieu of bounty in land, and said provision of the act of February 11, 1847, has been re-enacted in sections 2418 and 2419, Revised Statutes. It is, however, of little importance in this case whether the said re-enactment, in such a codification of old laws as the Revised Statutes purports to be, of a repealed law reinstates that law upon the statute books, for no one is likely to ask for the issue of a scrip certificate for \$100 in lieu of a bounty-land warrant whose market value is not less than \$175. It appears from the records of this office and those of the Treasury Department that the last scrip certificate was issued June 28, 1849; that all of such certificates matured on the 1st of July, 1849, when interest thereon ceased. The reports of the Treasury Department show that all of said certificates have been redeemed except a small number, amounting in value to \$3,175. After the repeal of the scrip provision of the act of 1847, the Pension Office issued, under the act of 1849, a certificate for \$100 in money in lieu of a warrant for 160 acres of land, and \$25 in money in lieu of a warrant of 40 acres. The last certificate of this kind issued from this Office was dated July 29, 1869. These money certificates bore no interest; they were simply so much money paid the party entitled to the warrant in lieu thereof.]

Revised Statutes.

Military bounty-land warrants and locations assignable.

23 Mar., 1852, c. 19, sec. 1, v. 10, p. 3.

3 June, 1858, c. 84, sec. 2, v. 11, p. 309.

See ordinance 20 May, 1785.

See act 15 Apr., 1808, sec. 1, and numerous subsequent continuing acts.

SEC. 2414. All warrants for military bounty-lands which have been or may hereafter be issued under any law of the United States, and all valid locations of the same which have been or may hereafter be made, are declared to be assignable by deed or instrument of writing made and executed according to such form and pursuant to such regulations as may be prescribed by the Commissioner of the General Land-Office, so as to vest the assignee with all the rights of the original owner of the warrant or location.

SEC. 2415. The warrants which have been or may hereafter be issued in pursuance of law may be located according to the legal subdivisions of the public lands in one body upon any lands of the United States subject to private entry at the time of such location at the minimum price. When such warrant is located on lands which are subject to entry at a greater minimum than one dollar and twenty-five cents per acre, the locator shall pay to the United States in cash the difference between the value of such warrants at one dollar and twenty-five cents per acre and the tract of land located on. But where such tract is rated at one dollar and twenty-five cents per acre, and does not exceed the area specified in the warrant, it must be taken in full satisfaction thereof.

Warrants located at \$1.25; excess paid in cash.

22 Mar., 1852, c. 19, sec. 1, v. 10, p. 3.

See ordinance 20 May, 1785.

See act 15 Apr., 1806, secs. 1 and 2, and numerous subsequent continuing acts.

See act 6 May, 1812, sec. 8.

SEC. 2416. In all cases of warrants for bounty-lands, issued by virtue of an act approved July twenty-seven, one thousand eight hundred and forty-two, and of two acts approved January twenty-seven, one thousand eight hundred and thirty five, therein and thereby revised, and of two acts to the same intent, respectively, approved June twenty-six, eighteen hundred and forty-eight, and February eight, eighteen hundred and fifty-four, for military services in the revolutionary war, or in the war of eighteen hundred and twelve with Great Britain, which remained unsatisfied on the second day of July, eighteen hundred and sixty-four, it is lawful for the person in whose name such warrant issued, his heirs or legal representatives, to enter in quarter-sections, at the proper local land-office in any of the States or Territories, the quantity of the public lands subject to private entry which he is entitled to under such warrant.

Location of land warrants issued in virtue of certain acts named.

2 July, 1864, c. 226, sec. 2, v. 13, p. 379.

SEC. 2417. All warrants for bounty-lands referred to in the preceding section may be located at any time, in conformity with the general laws in force at the time of such location.

Same subject.

2 July, 1864, c. 226, sec. 2, v. 13, p. 379.

[NOTE.—No blank forms for bounty-land warrants have been prepared since the adoption of the Revised Statutes. All warrants are therefore issued under the original laws, to wit, the acts of 1847, 1850, 1852 and 1855, and it is so recited in the body of the warrant, which does not indicate that the issue is made under any provision of the Revised Statutes.]

SEC. 2418. Each of the surviving, or the widow or minor children of deceased, commissioned and non-commissioned officers, musicians, or privates, whether of regulars, volunteers, rangers, or militia, who performed military service in any regiment, company, or detachment in the service of the United States in the war with Great Britain, declared on

Granting bounty-land warrants for various periods of service in certain wars.

28 Sept., 1850, c. 85, sec. 1, v. 9, p. 520.

11 Feb., 1847, c. 8, sec. 3, v. 9, pp. 128, 129.

War of 1812. the eighteenth day of June, eighteen hundred and twelve,
 Regular Army: or in any of the Indian wars since seventeen hundred and
 Sec act 24 Dec., ninety, and prior to the third of March, eighteen hundred
 1811, sec. 2. and fifty, and each of the commissioned officers who was
 Sec act 11 Jan., engaged in the military service of the United States in the
 1812, sec. 12. war with Mexico, shall be entitled to lands as follows:
 Sec act 20 Jan., Those who engaged to serve twelve months or during the
 1813, sec. 4. war, and actually served nine months, shall receive one
 Volunteers: hundred and sixty acres, and those who engaged to serve
 Sec act 6 Feb., six months, and actually served four months, shall receive
 1812, sec. 6. eighty acres, and those who engaged to serve for any or an
 Regular Army: indefinite period, and actually served one month, shall re-
 Double bounty. ceive forty acres; but wherever any officer or soldier was
 Sec act 10 Dec. honorably discharged in consequence of disability contracted
 1814, secs. 2 and 4. in the service before the expiration of his period of service,
 he shall receive the amount to which he would have been
 entitled if he had served the full period for which he had
 engaged to serve. All the persons enumerated in this sec-
 tion who enlisted in the Regular Army, or were mustered
 in any volunteer company for a period of not less than
 twelve months, and who served in the war with Mexico and
 received an honorable discharge, or who were killed or died
 of wounds received or sickness incurred in the course of
 such service, or were discharged before the expiration of
 the term of service in consequence of wounds received or
 sickness incurred in the course of such service, shall be en-
 titled to receive a certificate or warrant for one hundred and
 sixty acres of land; or, at option, Treasury scrip for one
 hundred dollars, bearing interest at six per cent. per annum,
 payable semi-annually, at the pleasure of the Government.
 In the event of the death of any one of the persons men-
 tioned in this section during service, or after his discharge,
 and before the issuing of a certificate or warrant, the war-
 rant or scrip shall be issued in favor of his family or rela-
 tives; first, to the widow and his children; second, his
 father; third, his mother; fourth, his brothers and sisters.

Fore and of Mex.
 ican war see res.
 16 June, 1848.
 Discharge for
 disability, see res.
 24 Mar., 1848.

Provision
 granting bounty-
 land to parents
 and brothers and
 sisters of other
 than enlisted men
 in war with Mex-
 ico is now law.
 For brothers
 and sisters see
 act 27 May, 1848,
 sec. 1.

[NOTE.—It is supposed that the preceding section was intended to embody the provisions of the bounty-land acts of February 11, 1847 and September 28, 1850. The former act as amended, granted bounty land to the enlisted men of the Mexican war, their widows and children, fathers, mothers, brothers, and sisters. The latter act made similar grants to the commissioned officers of that war, and to the officers and enlisted men of other wars from 1790 to the date of the act, and to the widows and minor children of such officers and enlisted men. In the attempt to combine these two acts in section 2418 above, and by the peculiar construction of that section, those who were actually provided for in the act of 1847, viz, the *enlisted men and their heirs*, were

entirely omitted, while on the other hand the benefits of the act of 1850 were extended to a class of heirs—to wit, fathers, mothers, brothers, and sisters—who were not previously provided for in that act or in any other bounty land law except the act of 1847 and amendment. The questions raised by these diversities in the law have, however, been settled by the Department. It is held: 1. That the provisions of the act of 1847 are kept in force by section 5597, Revised Statutes, notwithstanding the provisions of repeal contained in section 5596, Revised Statutes. 2. That the new law incorporated in section 2418 must be given its full force and intent. See (3) paragraph 15, and (4) paragraph 47, title *Bounty Land*.]

SEC. 2419. The persons enumerated in the preceding section received into service after the commencement of the war with Mexico, for less than twelve months, and who served such term, or were honorably discharged, are entitled to receive a certificate or warrant for forty acres, or scrip for twenty-five dollars, if preferred; and in the event of the death of such person during service, or after honorable discharge before the eleventh of February, eighteen hundred and forty-seven, the warrant or scrip shall issue to the wife, child, or children, if there be any, and, if none, to the father, and if no father, to the mother of such soldier.

Certain classes of persons in the Mexican war, their widows, &c., entitled to forty acres.

11 Feb., 1847, c. 8, sec. 9, v. 9, p. 126.

SEC. 2420. Where the militia, or volunteers, or State troops of any State or Territory, subsequent to the eighteenth day of June, eighteen hundred and twelve, and prior to March twenty-second, eighteen hundred and fifty-two, were called into service, the officers and soldiers thereof shall be entitled to all the benefits of section two thousand four hundred and eighteen upon proof or length of service as therein required.

Militia and volunteers in service since 1812.

22 Mar. 1852, c. 19, sec. 4, v. 10, p. 4.

SEC. 2421. No person shall take any benefit under the provisions of the three preceding sections if he has received, or is entitled to receive, any military land bounty under any act of Congress passed prior to the twenty-second March, eighteen hundred and fifty-two.

Persons not entitled under preceding sections.

28 Sept., 1850, c. 85, sec. 1, v. 9, p. 520.

Also act 22 Mar. 1852, sec. 4. Proviso.

[Ruling of Commissioner of Pensions, No. 28. Section 2421 should be read and interpreted in the same sense as if the word "other" stood between the words "any" and "act" in the third line of the section, and such will be the construction of this Bureau.]

SEC. 2422. The period during which any officer or soldier remained in captivity with the enemy shall be estimated and added to the period of his actual service, and the person so retained in captivity shall receive land under the provisions of sections twenty-four hundred and eighteen and twenty-four hundred and twenty, in the same manner that

Period of captivity added to actual service.

28 Sept., 1850, c. 85, sec. 2, v. 9, p. 520.

he would be entitled in case he had entered the service for the whole term made up by the addition of the time of his captivity, and had served during such term.

Warrant and patent to issue, when.

28 Sep., 1850, c. 85, sec. 3, v. 9, p. 520.

See ordinance 20 May, 1785.

See act 15 Apr. 1806, secs. 1 and 2, and numerous continuing acts.

See act 6 May, 1812, sec. 3.

Widows of persons entitled.

28 Sept., 1850, c. 85, sec. 3, v. 9, p. 520.

SEC. 2423. Every person for whom provision is made by sections twenty-four hundred and eighteen and twenty-four hundred and twenty shall receive a warrant from the Department of the Interior for the quantity of land to which he is entitled; and, upon the return of such warrant with evidence of the location thereof having been legally made, to the General Land Office, a patent shall be issued therefor.

SEC. 2424. In the event of the death of any person for whom provision is made by sections twenty-four hundred and eighteen and twenty-four hundred and twenty, and who did not receive bounty-land for his services, a like warrant shall issue in favor of his widow, who shall be entitled to one hundred and sixty acres of land in case her husband was killed in battle; nor shall a subsequent marriage impair the right of any widow to such warrant, if she be a widow at the time of making her application.

Additional bounty-lands, &c.

3 Mar., 1855, c. 207, sec. 1, v. 10, pp. 701, 702.

SEC. 2425. Each of the surviving persons specified in the classes enumerated in the following section, who has served for a period of not less than fourteen days in any of the wars in which the United States have been engaged since the year seventeen hundred and ninety and prior to the third day of March, eighteen hundred and fifty-five, shall be entitled to receive a warrant from the Department of the Interior for one hundred and sixty acres of land; and, where any person so entitled has, prior to the third day of March, eighteen hundred and fifty-five, received a warrant for any number of acres less than one hundred and sixty, he shall be allowed a warrant for such quantity of land only as will make, in the whole, with what he may have received prior to that date, one hundred and sixty acres.

Classes under last section specified.

3 Mar., 1855, c. 207, sec. 1, v. 10, p. 701.

SEC. 2426. The classes of persons embraced as beneficiaries under the preceding section are as follows, namely:

First. Commissioned and non-commissioned officers, musicians, and privates, whether of the regulars, volunteers, rangers, or militia, who were regularly mustered into the service of the United States.

3 Mar., 1855, sec. 1.

Second. Commissioned and non-commissioned officers, seamen, ordinary seamen, flotilla-men, marines, clerks, and landsmen in the Navy.

3 Mar., 1855, sec. 1.

Third. Militia, volunteers, and State troops of any State or Territory, called into military service and regularly mus-

tered therein, and whose services have been paid by the United States.

Fourth. Wagon-masters and teamsters who have been employed under the direction of competent authority, in time of war, in the transportation of military stores and supplies. 8 Mar., 1855,
sec. 1, 2d proviso.

Fifth. Officers and soldiers of the revolutionary war, and marines, seamen, and other persons in the naval service of the United States during that war. 3 Mar., 1855,
sec. 8.
14 May, 1856,
sec. 4.

Sixth. Chaplains who served with the Army. 8 Mar., 1855,
sec. 10.

Seventh. Volunteers who served with the armed forces of the United States in any of the wars mentioned, subject to military orders, whether regularly mustered into the service of the United States or not. 14 May, 1856,
sec. 5.

SEC. 2427. The following class of persons are included as beneficiaries under section twenty-four hundred and twenty-five, without regard to the length of service rendered : What classes
of persons enti-
tled under section
2425, without re-
gard to length of
service.

First. Any of the classes of persons mentioned in section twenty-four hundred and twenty-six who have been actually engaged in any battle in any of the wars in which this country has been engaged since seventeen hundred and ninety, and prior to March third, eighteen hundred and fifty-five. 8 Mar., 1855, c.
207, sec. 3, v. 10, p.
702.

Second. Those volunteers who served at the invasion of Plattsburgh, in September, eighteen hundred and fourteen. 8 Mar., 1855,
sec. 9.

Third. The volunteers who served at the battle of King's Mountain, in the revolutionary war. 8 Mar., 1855,
sec. 9.

Fourth. The volunteers who served at the battle of Nick-ojack against the confederate savages of the South. 8 Mar., 1855,
sec. 9.

Fifth. The volunteers who served at the attack on Lewistown, in Delaware, by the British fleet, in the war of eighteen hundred and twelve. 8 Mar., 1855,
sec. 11.

SEC. 2428. In the event of the death of any person who would be entitled to a warrant, as provided in section twenty-four hundred and twenty-five, leaving a widow, or, if no widow, a minor child, such widow or such minor child shall receive a warrant for the same quantity of land that the decedent would be entitled to receive, if living on the third day of March, eighteen hundred and fifty-five. Widows and
children of per-
sons entitled un-
der section 2425.
8 Mar., 1855, c.
207, sec. 2, v. 10, p.
702.
Also 14 May,
1856, sec. 6.

SEC. 2429. A subsequent marriage shall not impair the right of any widow, under the preceding section, if she be a widow at the time of her application. Subsequent
marriage of
widow.
8 Mar., 1855, c.
207, sec. 2, v. 10, p.
702.
See sec. 2424.

Minors under
section 2428.

3 Mar., 1855, c.
207, sec. 2, v. 10,
p. 702.

SEC. 2430. Persons within the age of twenty-one years on the third day of March, eighteen hundred and fifty-five, shall be considered minors within the intent of section twenty-four hundred and twenty-eight.

Proof of service.

14 May, 1856,
sec. 3.

SEC. 2431. Where no record evidence of the service for which a warrant is claimed exists, parol evidence may be admitted to prove the service performed, under such regulations as the Commissioner of Pensions may prescribe.

Former evi-
dence of right to
bounty-land to be
received in cer-
tain cases.

14 May, 1856, c.
26, sec. 1, v. 11, p.
8.

SEC. 2432. Where a certificate or warrant for bounty-land for any less quantity than one hundred and sixty acres has been issued to any officer or soldier, or to the widow or minor child of any officer or soldier, the evidence upon which such certificate or warrant was issued shall be received to establish the service of such officer or soldier in the application of himself, or of his widow or minor child, for a warrant for so much land as may be required to make up the full sum of one hundred and sixty acres, to which he may be entitled under the preceding section, on proof of the identity of such officer or soldier, or, in case of his death, of the marriage and identity of his widow, or, in case of her death, of the identity of his minor child. But if, upon a review of such evidence, the Commissioner of Pensions is not satisfied that the former warrant was properly granted, he may require additional evidence, as well of the term as of the fact of service.

Allowance of
time of service
for distance from
home to place of
muster or dis-
charge.

14 May, 1856, c.
26, sec. 7, v. 11,
p. 9.

22 Mar., 1852,
c. 19, sec. 5, v. 10,
p. 4.

SEC. 2433. When any company, battalion, or regiment, in an organized form, marched more than twenty miles to the place where they were mustered into the service of the United States, or were discharged more than twenty miles from the place where such company, battalion, or regiment was organized, in all such cases, in computing the length of service of the officers and soldiers of any such company, battalion, or regiment, there shall be allowed one day for every twenty miles from the place where the company, battalion, or regiment was organized to the place where the same was mustered into the service of the United States, and one day for every twenty miles from the place where such company, battalion, or regiment was discharged, to the place where it was organized, and from whence it marched to enter the service, provided that such march was in obedience to the command or direction of the President, or some general officer of the United States, commanding an army or department, or the chief executive officer of the State or

Territory by which such company, battalion, or regiment was called into service.

SEC. 2434. The provisions of all the bounty-land laws shall be extended to Indians, in the same manner and to the same extent as to white persons.

Indians included.

3 Mar., 1855, c. 207, sec. 7, v. 10, p. 762.

SEC. 2435. Where a pension has been granted to any officer or soldier, the evidence upon which such pension was granted shall be received to establish the service of such officer or soldier in his application for bounty land; and upon proof of his identity as such pensioner, a warrant may be issued to him for the quantity of land to which he is entitled; and in case of the death of such pensioned officer or soldier, his widow shall be entitled to a warrant for the same quantity of land to which her husband would have been entitled, if living, upon proof that she is such a widow; and in case of the death of such officer or soldier, leaving a minor child and no widow, or where the widow may have deceased before the issuing of any warrant, such minor child shall be entitled to a warrant for the same quantity of land as the father would have been entitled to receive if living, upon proof of the decease of father and mother. But if, upon a review of such evidence, the Commissioner of Pensions is not satisfied that the pension was properly granted, he may require additional evidence, as well of the term as of the fact of service.

Former evidence of right to a pension to be received in certain cases on application for bounty-land.

14 May, 1856, c. 26, sec. 2, v. 11, p. 8.

SEC. 2436. All sales, mortgages, letters of attorney, or other instruments of writing, going to affect the title or claim to any warrant issued, or to be issued, or any land granted, or to be granted, under the preceding provisions of this chapter, made or executed prior to the issue of such warrant, shall be null and void to all intents and purposes whatsoever; nor shall such warrant, or the land obtained thereby, be in anywise affected by, or charged with, or subject to, the payment of any debt or claim incurred by any officer or soldier, prior to the issuing of the patent.

Sales, mortgages, letters of attorney, &c., made before issue of warrant to be void.

28 Sept., 1850, c. 85, sec. 4, v. 9, p. 521.

Also 11 Feb., 1847, sec. 9.

See ordinance 20 May, 1785.

See act 20 Apr., 1806, secs. 1, 2, and various continuing acts.

See act 6 May, 1812, sec. 4.

SEC. 2437. It shall be the duty of the Commissioner of the General Land-Office, under such regulations as may be prescribed by the Secretary of the Interior, to cause to be located, free of expense, any warrant which the holder may transmit to the General Land-Office for that purpose, in such State or land-district as the holder or warrantee may designate, and upon good farming-land, so far as the same can be ascertained from the maps, plats, and field-notes of the surveyor, or from any other information in the posses-

Warrants to be located free of expense by Commissioner of Land Office, &c.

28 Sept., 1850, c. 85, sec. 4, v. 9, p. 521.

See ordinance 20 May, 1785.

See act 20 Apr., 1806, secs. 1, 2, and various continuing acts.

See act 6 May, 1812, sec. 2, 3.

sion of the local office, and, upon the location being made, the Secretary shall cause a patent to be transmitted to such warrantee or holder.

Deserters not
entitled to bounty-land.

SEC. 2438. No person who has been in the military service of the United States shall, in any case, receive a bounty-land warrant if it appears by the muster-rolls of his regiment or corps that he deserted or was dishonorably discharged from service.

701.

11 Feb., 1847, sec. 9; 24 Dec., 1811, sec. 2, and other acts.

Lost warrants,
provisions for.

SEC. 2439. When a soldier of the Regular Army, who has obtained a military land-warrant, loses the same, or such warrant is destroyed by accident, he shall upon proof thereof, to the satisfaction of the Secretary of the Interior, be entitled to a patent in like manner as if the warrant was produced.

Discharges,
omissions, and
loss of, provided
for.

SEC. 2440. In all cases of discharge from the military service of the United States of any soldier of the Regular Army, when it appears to the satisfaction of the Secretary of War that a certificate of faithful services has been omitted by the neglect of the discharging officer, by misconstruction of the law, or by any other neglect or casualty, such omission shall not prevent the issuing of the warrant and patent as in other cases. And when it is proved that any soldier of the Regular Army has lost his discharge and certificate of faithful service, the Secretary of War shall cause such papers to be furnished such soldier as will entitle him to his land-warrant and patent, provided such measure is justified by the time of his enlistment, the period of service, and the report of some officer of the corps to which he was attached.

New warrant
issued in lieu of
lost warrant.

SEC. 2441. Whenever it appears that any certificate or warrant, issued in pursuance of any law granting bounty-land, has been lost or destroyed, whether the same has been sold and assigned by the warrantee or not, the Secretary of the Interior is required to cause a new certificate or warrant of like tenor to be issued in lieu thereof; which new certificate or warrant may be assigned, located, and patented in like manner as other certificates or warrants for bounty-land are now authorized by law to be assigned, located, and patented; and in all cases where warrants have been, or may be, reissued, the original warrant, in whose hands it may be, shall be deemed and held to be null and void, and the assignment thereof, if any there be, fraudulent; and no patent shall ever issue for any land

23 June, 1860, c.
208, sec. 1, v. 12,
p. 90.

located therewith, unless such presumption of fraud in the assignment be removed by due proof that the same was executed by the warrantee in good faith and for a valuable consideration.

SEC. 2442. The Secretary of the Interior is required to prescribe such regulations for carrying the preceding section into effect as he may deem necessary and proper, in order to protect the Government against imposition and fraud by persons claiming the benefit thereof; and all laws and parts of laws for the punishment of frauds against the United States are made applicable to frauds under that section.

Regulations by Secretary of Interior.

23 June, 1860, c. 203, sec. 2, v. 12, p. 91.

SEC. 2443. In all cases where an officer or soldier of the revolutionary war, or a soldier of the war of eighteen hundred and twelve, was entitled to bounty-land, has died before obtaining a patent for the land, and where application is made by a part only of the heirs of such deceased officer or soldier for such bounty-land, it shall be the duty of the Secretary of the Interior to issue the patent in the name of the heirs of such deceased officer or soldier, without specifying each; and the patent so issued in the name of the heirs, generally, shall inure to the benefit of the whole, in such portions as they are severally entitled to by the laws of descent in the State or Territory where the officer or soldier belonged at the time of his death.

Mode of issuing patents to the heirs of persons entitled to bounty-lands.

3 Mar., 1843, res. No. 7, v. 5, p. 650.

SEC. 2444. When proof has been or hereafter is filed in the Pension Office, during the lifetime of a claimant, establishing, to the satisfaction of that office, his right to a warrant for military services, and such warrant has not been, or may not be, issued until after the death of the claimant, and all such warrants as have been heretofore issued subsequent to the death of the claimant, the title to such warrants shall vest in his widow, if there be one, and if there be no widow, then in the heirs or legatees of the claimant; and all military bounty-land warrants issued pursuant to law shall be treated as personal chattels, and may be conveyed by assignment of such widow, heirs, or legatees, or by the legal representatives of the deceased claimant, for the use of such heirs or legatees only.

Death of claimant after establishing right and before issuing of warrant.

3 June, 1853, c. 84, sec. 1, v. 11, p. 308.

See 11 Feb., 1847, sec. 9.

See 28 Sept., 1850, sec. 3.

SEC. 2445. The legal representatives of a deceased claimant for a bounty-land warrant, whose claim was filed prior to his death, may file the proofs necessary to perfect such claim.

When proofs may be filed by legal representatives.

3 Mar., 1860, c. 133, v. 15, p. 336.

Relocation of military bounty-land warrants in cases of error.

3 Mar., 1853,
a. 147, sec. 1, v. 10,
p. 254.

SEC. 2446. Where an actual settler on the public lands has sought, or hereafter attempts, to locate the land settled on and improved by him, with a military bounty-land warrant, and where, from any cause, an error has occurred in making such location, he is authorized to relinquish the land so erroneously located, and to locate such warrant upon the land so settled upon and improved by him, if the same then be vacant, and if not, upon any other vacant land, on making proof of those facts to the satisfaction of the land-officers, according to such rules and regulations as may be prescribed by the Commissioner of the General Land-Office, and subject to his final adjudication.

Claims barred by disloyalty.

Joint resolution
2 Mar., 1867.

SEC. 3480. It shall be unlawful for any officer to pay any account, claim, or demand against the United States which accrued or existed prior to the thirteenth day of April, eighteen hundred and sixty-one, in favor of any person who promoted, encouraged, or in any manner sustained the late rebellion, or in favor of any person who during such rebellion was not known to be opposed thereto, and distinctly in favor of its suppression; and no pardon heretofore granted, or hereafter to be granted, shall authorize the payment of such account, claim or demand, until this section is modified or repealed. But this section shall not be construed to prohibit the payment of claims founded upon contracts made by any of the departments, where such claims were assigned or contracted to be assigned prior to the first day of April, eighteen hundred and sixty-one, to the creditors of such contractors, loyal citizens of loyal States, in payment of debts incurred prior to the first day of March, eighteen hundred and sixty-one.

Penalty for false affidavit and post-dating of vouchers, &c.

8 Mar., 1873, c.
234, sec. 33, v. 17,
p. 375.

SEC. 4746. Every person who knowingly or willfully in anywise procures the making or presentation of any false or fraudulent affidavit concerning any claim for pension, or payment thereof, or *pertaining to any other matter within the jurisdiction of the Commissioner of Pensions*, or who knowingly or willfully presents, or causes to be presented, at any pension agency any power of attorney or other paper required as a voucher in drawing a pension, which paper bears a date subsequent to that on which it was actually signed or executed, shall be punished by a fine not exceeding five hundred dollars, or by imprisonment for a term not exceeding three years, or by both.

Commissioner to furnish printed instructions, free of charge.

8 Mar., 1873, c.
234, sec. 22, p. 573.

SEC. 4748. That the Commissioner of Pensions, on application being made to him in person, or by letter, by any claimant or applicant for pension, bounty-land, or other allowance required by law to be adjusted or paid by the

Pension Office, shall furnish such persons, free of all expense, all such printed instructions and forms as may be necessary in establishing and obtaining said claim; and on the issuing of a certificate of pension or of bounty-land warrant, he shall forthwith notify the claimant or applicant, and also the agent or attorney in the case, if there be one, that such certificate has been issued, or allowance made, and the date and amount thereof.

SEC. 5420. Every person who falsely makes, alters, forges, or counterfeits any military bounty-land warrant or military bounty-land warrant certificate issued or purporting to have been issued by the Commissioner of Pensions under any act of Congress, or any certificate of location of any military bounty-land warrant, or any duplicate thereof, or military bounty-land warrant certificate upon any of the lands of the United States, or any certificate of the purchase of any of the lands of the United States, or any duplicate certificate of the purchase of any of the lands of the United States, or any receipt for the purchase-money of any of the lands of the United States, or any duplicate receipt for the purchase-money of any lands of the United States, issued or purporting to have been issued by the register and receiver at any land-office of the United States, or by either of them, or who passes, utters, or publishes as true any false, forged, or counterfeited military bounty-land warrant, military bounty-land warrant certificate, certificate of location, or duplicate certificate of location, certificate of purchase, duplicate certificate of purchase, receipt or duplicate receipt for the purchase-money of any of the lands of the United States, knowing the same to be false or forged, shall be imprisoned at hard labor not less than three years nor more than ten years.

Forging, counterfeiting, or passing military bounty-land warrants.

5 Feb., 1859, c. 23, v. 11, p. 341.

SEC. 5421. Every person who falsely makes, alters, forges, or counterfeits, or causes or procures to be falsely made, altered, forged, or counterfeited, or willingly aids or assists in the false making, altering, forging, or counterfeiting, any deed, power of attorney, order, certificate, receipt, or other writing, for the purpose of obtaining or receiving, or of enabling any other person, either directly or indirectly, to obtain or receive from the United States, or any of their officers or agents, any sum of money, or who utters or publishes as true, or causes to be uttered or published as true, any such false, forged, altered, or counterfeited deed, power of attorney, order, certificate, receipt, or other writing, with intent to defraud the United States, knowing the same to be false,

Forging deed, power of attorney, &c.

8 Mar., 1823, c. 38, sec. 1, v. 2, p. 771.

altered, forged, or counterfeited, or who transmits to, or presents at, or causes or procures to be transmitted to, or presented at, any office or officer of the government of the United States any deed, power of attorney, order, certificate, receipt, or other writing in support of, or in relation to, any account or claim, with intent to defraud the United States, knowing the same to be false, altered, forged, or counterfeited, shall be imprisoned at hard labor for a period of not less than one year nor more than ten years, or shall be imprisoned not more than five years and fined not more than one thousand dollars.

Attorney for
pensions de-
manding more
than legal fee,
&c.

3 Mar., 1873, c.
234, sec. 81, v. 17,
p. 575.

SEC. 5485. Any agent or attorney, or any other person instrumental in prosecuting any claim for pension or bounty-land, who shall directly or indirectly contract for, demand, or receive or retain any greater compensation for his services, or instrumentality in prosecuting a claim for pension or bounty-land than is provided in the title pertaining to pensions, or who shall wrongfully withhold from a pensioner or claimant the whole or any part of the pension or claim allowed and due such pensioner or claimant, or the land-warrant issued to any such claimant, shall be deemed guilty of a high misdemeanor, and, upon conviction thereof, shall for every such offense be fined not exceeding five hundred dollars, or imprisonment at hard labor not exceeding two years, or both, at the discretion of the court.

ADDENDA.

PENSION LAWS, INCLUDING REVISED STATUTES, ENACTED
SINCE MARCH 4, 1861, AND SINCE

REPEALED.

ADDENDA.

LAWS ENACTED SINCE MARCH 4, 1861, AND SINCE REPEALED.

Five Years' Limitation.

SEC. 4709. All pensions which have been, or which may hereafter be, granted in consequence of death occurring from a cause which originated in the service since the fourth day of March, eighteen hundred and sixty-one, or in consequence of wounds or injuries received or disease contracted since that date, shall commence from the death or discharge of the person on whose account the claim has been, or is hereafter, granted, or from the termination of the right of party having peior title to such pension; provided the application for such pension has been or is hereafter filed with the Commissioner of Pensions within five years after the right thereto has accrued; otherwise the pension shall commence from the date of filing the last evidence necessary to establish the same. But the limitation herein prescribed shall not apply to claims by or in behalf of insane persons and children under sixteen years.

Repealed by act of 3 Mar., 1879.
Sect. 15, 3 Mar., 1873.
Sect. 5, 14 July, 1862.
Sect. 6, 4 July, 1864.
Sect. 13, 6 June, 1866.
Sect. 6, 27 July, 1868.
See amendment acts 25 Jan., and 3 Mar., 1879.

When right to pension accrued.

SEC. 4710. In construing the preceding section, the right of persons entitled to pensions shall be recognized as accruing at the date therein stated for the commencement of such pension, and the right of a dependent father or dependent brother to pension shall not in any case be held to have accrued prior to the sixth day of June, eighteen hundred and sixty-six; and the right of all other classes of claimants, if applying on account of the death of a person who was regularly mustered into the service, or regularly employed in the Navy or upon the gunboats or war vessels of the United States, shall not be held to have accrued prior to the fourteenth day of July, eighteen hundred and sixty-two; if applying on account of a chaplain of the Army, their right shall not be held to have accrued prior to the ninth day of April, eighteen hundred and sixty-four; if applying on account of

See amendment acts 25 Jan., and 3 Mar., 1879.
Sect. 16, 3 Mar., 1873.
Sect. 12, 6 June, 1866.
Secs. 1, 10, 14 July, 1862.
Sect. 2, 9 Apr., 1864.

- an enlisted soldier who was not mustered, or a non-enlisted man in temporary service, their right shall not be held to have accrued prior to the fourth day of July, eighteen hundred and sixty-four; if applying on account of an acting assistant or contract surgeon, their right shall not be held to have accrued prior to the third day of March, eighteen hundred and sixty-five; if applying on account of persons enlisted as teamsters, wagoners, artificers, hospital-stewards, or farriers, their right shall not be held to have accrued prior to the sixth day of June, eighteen hundred and sixty-six; and the right of all classes of claimants applying on account of a provost-marshal, deputy provost-marshal, or enrolling-officer, shall not be held to have accrued prior to the twenty-fifth day of July, eighteen hundred and sixty-six. But the right of a widow or dependent mother who married prior, and did not apply till subsequent to the twenty-seventh day of July, eighteen hundred and sixty-eight, shall not be held to have accrued prior to that date.
- Sec. 9, 4 July, 1864.
 Sec. 2, 8 Mar., 1865.
 Sec. 10, 6 June, 1866.
 Sec. 1, 25 July, 1866.
 Sec. 10, 25 July, 1868.

Claims to be prosecuted within five years.

- SEC. 4717. No claim for pension not prosecuted to a successful issue within five years from the date of filing the same shall be admitted without record-evidence from the War or Navy Department of the injury or the disease which resulted in the disability or death of the person on whose account the claim is made: *Provided*, That in any case in which the limitation prescribed by this section bars the further prosecution of the claim, the claimant may present, through the Pension Office, to the Adjutant-General of the Army or the Surgeon-General of the Navy, evidence that the disease or injury which resulted in the disability or death of the person on whose account the claim is made originated in the service and in the line of duty; and if such evidence is deemed satisfactory by the officer to whom it may be submitted, he shall cause a record of the fact so proved to be made, and a copy of the same to be transmitted to the Commissioner of Pensions, and the bar to the prosecution of the claim shall thereby be removed.
- Sec. 3, act of 25 Jan., 1879.
 Sec. 24, 3 Mar., 1873.
 Sec. 6, 4 July, 1864.
 Sec. 11, 27 July, 1868.
 Sec. act 3 Mar., 1879.

Biennial examinations.

- SEC. 4771. In all cases of application for the payment of pensions to invalid pensioners to the fourth day of September of an odd year, the certificate of an examining surgeon, duly appointed by the Commissioner of Pensions or of a surgeon of the Army or Navy, stating the continuance of the disability for which the pension was originally granted
- Repealed by act 21 June, 1879.
 Sec. 34, 3 Mar., 1872.
 Sec. 1, 3 Mar., 1819.
 Sec. 2, 3 Mar., 1860.
 Sec. 1, 4 July, 1864.
 Sec. 8, 14 July, 1862.

ed, describing it, and the degree of such disability at the time of making the certificate, shall be required to accompany the vouchers, and a duplicate thereof shall be filed in the office of the Commissioner of Pensions; and if in a case of continued disability it shall be stated at a degree below that for which the pension was originally granted or was last paid, the pensioner shall only be paid for the quarter then due at the rate stated in the certificate. But where the pension was originally granted for a disability in consequence of the loss of a limb or other essential portion of the body, or for other cause, which cannot, either in whole or in part, be removed, or when a disability is certified, by competent examining surgeons, to the satisfaction of the Commissioner of Pensions, to have become permanent in a degree equal to the whole rate of pension, the above certificate shall not be necessary to entitle the pensioner to payment.

SEC. 4772. Nothing in the preceding section shall be construed to prevent the Commissioner of Pensions from requiring a more frequent examination, if, in his judgment, it is necessary.

More frequent examination.
Repealed. (See appropriation act 21 June, 1879.)
Sec. 34, 3 Mar., 1873.

SEC. 4773. The biennial certificate of two unappointed civil surgeons shall not be accepted in any case, except upon satisfactory evidence that an examination by a commissioned or duly appointed surgeon is impracticable.

Sec. 8, 4 July, 1864.
Biennial examinations by unappointed civil surgeons.
Repealed. (See appropriation act 21 June, 1879.)
Sec. 1, 4 July, 1864.

Boards of Examining Surgeons.

SEC. 4774. The Commissioner of Pensions is authorized to organize, at his discretion, boards of examining surgeons, not to exceed three members, and each member of a board thus organized, who is actually present and makes, in connection with other members or member, an ordered or periodical examination, shall be entitled to the fee of one dollar, on the receipt of a proper certificate of such examination by the Commissioner of Pensions.

Sec. 36, 3 Mar., 1873.
Sec. 8, 4 July, 1864.
Superseded by sec. 4, act 25 July 1882.

Compensation of Pension Agents.

SEC. 4781. Agents for paying pensions shall receive two per centum on all disbursements made by them to pensioners. There shall be allowed, however, over and above such compensation, to every pension-agent disbursing fifty thousand dollars annually, not exceeding five hundred dollars a year for clerk-hire, office-rent, and office-expenses; to every agent disbursing one hundred thousand dollars annually, not exceeding seven hundred and fifty dollars a year; and

Sec. 2, 20 Feb., 1847.
Resolution, 17 July, 1862.
Act 30 June, 1864.

for every fifty thousand dollars additional, not exceeding two hundred and fifty dollars a year for like purposes. But in no case shall the aggregate amount of compensation to any one agent paying both Army and Navy pensions, exceed four thousand dollars a year.

Additional allowance. SEC. 4782. In addition to the compensation allowed in this Title, each pension-agent shall be allowed, as full compensation for all service, including postage, required by the provisions of sections forty-seven hundred and sixty-four and forty-seven hundred and sixty-five, the sum of thirty cents, and no more, for each voucher prepared and paid by him, which amount shall be paid by the United States.

Sec. 4, 8 July, 1870.
See appropriation act 20 June, 1874.
Act 23 Mar., 1876.
Sec. 1, act 4 July, 1884.
Act 8 Mar., 1885.

Sec. 1, act 4 July, 1884.
Act 8 Mar., 1885.

AN ACT making appropriations for the payment of invalid and other pensions of the United States for the year ending June thirtieth, eighteen hundred and seventy-five.

* * * * *

Provided further, That the fees for preparing vouchers and administering oaths, which are now by law thirty cents in each case, shall hereafter be twenty-five cents for the same and no more.

Approved, June 20, 1874.

Fees of agents and attorneys.

Repealed. See act 4 July, 1884.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, It shall be unlawful for any attorney, agent, or other person to demand or receive for his services in a pension case a greater sum than ten dollars. No fee contract shall hereafter be filed with the Commissioner of Pensions in any case. In pending cases in which a fee contract has heretofore been filed, if the pension shall be allowed, the Commissioner of Pensions shall approve the same as to the amount of the fee to be paid at the amount specified in the contract. Sections forty-seven hundred and sixty-eight, forty-seven hundred and sixty-nine and forty-seven hundred and eighty-six of the Revised Statutes shall not apply to any case or claim hereafter filed, nor to any pending claim in which the claimant has not been represented by an agent or attorney prior to the passage of this act.

Sec. 4785 re-enacted and amended by act 4 July, 1884.

SEC. 2. Section forty-seven hundred and eighty-five of the Revised Statutes is hereby repealed.

Act approved June 20, 1878.

Artificial limbs.

SEC. 4789. The Surgeon-General shall certify to the Commissioner of Pensions a list of all soldiers who elect to receive money-commutation instead of limbs or apparatus, with the amount due to each, and the Commissioner of Pensions shall cause the same to be paid to such soldiers in the same manner as pensions are paid.

Sec. 2, 17 June, 1870, superseded by sec. 1, 15 Aug., 1874.

Disloyalty.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to strike from the pension-rolls the names of all such persons as have or may hereafter take up arms against the Government of the United States, or who have in any manner encouraged the rebels, or manifested a sympathy with their cause.

Persons engaged in rebellion to be stricken from the pension-rolls.

Repealed so far as it relates to persons pensioned on account of service in the war of 1812, and service in any of the Indian wars. Secs. 5, 6, act 9 Mar., 1878. J. R. 2 Mar., 1867.

Act approved February 4, 1862.

Resolved, That until otherwise ordered it shall be unlawful for any officer of the United States Government to pay any account, claim, or demand against said Government which accrued or existed prior to the thirteenth of April, eighteen hundred and sixty-one, in favor of any person who promoted, encouraged, or in any manner sustained the late rebellion, or in favor of any person who, during said rebellion, was not known to be opposed thereto, and distinctly in favor of its suppression; and no pardon heretofore granted, or hereafter to be granted, shall authorize the payment of such account, claim, or demand, until this resolution is modified or repealed: *Provided,* That this resolution shall not be construed to prohibit the payment of claims founded upon contracts made by any of the Departments, where such claims were assigned or contracted to be assigned prior to April first, eighteen hundred and sixty-one, to creditors of said contractors, loyal citizens of loyal States, in payment of debts incurred prior to March first, eighteen hundred and sixty-one.

Sec. 4716, R. S. Prohibiting the payment of any demand, &c., against the Government, existing prior to 13 Apr., 1861, in favor of persons engaged in any manner in rebellion.

Repealed so far as it relates to pension claims of persons on account of services in war of 1812, and in any of the Indian wars.

See secs. 5, 6, act 9 Mar., 1878. Sec. 4716, R. S. Sec. 2480, R. S.

Joint resolution approved March 2, 1867.

Invalids not entitled to pensions while drawing full pay from the Government.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no invalid pensioner, now or hereafter in the service of the

Repealed by sec. 5, act of June 6, 1864. See sec. 4724, R. S.

United States, shall be entitled to draw a pension for any period of time during which he is or shall be entitled to the full pay or salary which an able-bodied person discharging like duties to the Government is allowed by law.

* * * * *

Act approved March 3, 1865.

[NOTE.—Pensions withheld under this act between March 3, 1865, and June 6, 1866, were restored by act of March 1, 1879.]















RETURN TO → CIRCULATION DEPARTMENT
202 Main Library

LOAN PERIOD 1	2	3
HOME USE		
4	5	6

ALL BOOKS MAY BE RECALLED AFTER 7 DAYS

Renewals and Recharges may be made 4 days prior to the due date.

Books may be Renewed by calling 642-3405.

DUE AS STAMPED BELOW

LIBRARY USE ONLY		
JUN 30 1988		
CIRCULATION DEPT.		
RECEIVED		
JUN 30 1988		
CIRCULATION DEPT.		

FORM NO. DD6,

UNIVERSITY OF CALIFORNIA, BERKELEY
 BERKELEY, CA 94720

YC 63041

U.C. BERKELEY LIBRARIES



C008335883

UB 373

293352

A2

1885

U.S. Laws, statutes

UNIVERSITY OF CALIFORNIA LIBRARY

